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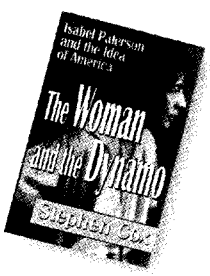

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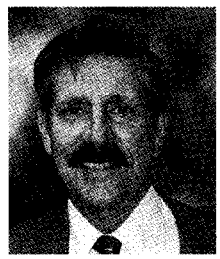
Academic Socialism Versus the Free Market



BY RICHARD M. EBELING

Academia has long been thought of as the "marketplace of ideas," the arena where truth may be pursued through dispassionate discourse and openness to competing views. Yet higher education in America has moved a great distance from this ideal and its practice.

Too many of our colleges and universities have become cloistered "hothouses" of bias and intolerance—schools of closed-mindedness. Everywhere we look these institutions are dominated by "political correctness," the common theme of which is disdain and disapproval of the American traditions of individualism, free enterprise, and constitutionally limited government.

No amount of criticism or doubt from outside those hallowed halls seems to affect either the professors or the administrators, who claim to be the stewards of the younger generation placed in their intellectual and moral care. Indeed, more often than not, they demonstrate contempt for those who challenge their entitlement to mentor and mold our sons and daughters as they think fit. Their conduct shows that they consider themselves answerable to no one but themselves.

This should not be surprising considering the special, indeed, unique environment in which they operate. The vast majority of America's colleges and universities have become insular islands of "academic socialism." They are either directly owned and operated by government, or if they are "private," they have become so dependent on government loans, scholarships, and research grants that they have little real interaction with the wider society.

Regardless of the lack of intellectual merit or usefulness of what is often taught in fields such as history, political science, economics, sociology, and literature, the faculties at these schools are protected from any negative feedback. Their salaries at state institutions are paid through tax dollars; their jobs are secured through lifetime tenure; and the content of their courses are judged as good or bad only by themselves. Any doubts about or dissent against how and what they teach is responded to with shouts of "academic freedom." That phrase has become a mantra to ward off the demons: those of us who may not agree with the "wisdom" they wish to "share" with our children.

Government funding, of course, comes from tax dollars expropriated from the hard-earned income of the American citizenry. Parents are therefore left with fewer financial resources with which to send their children to educational institutions outside the net of state sponsorship and control. Further, the lure of less-expensive state-funded and state-subsidized colleges and universities creates a perverse incentive for parents to send their young to these politically funded schools.

The damage from all this goes far beyond wasting the taxpayers' dollars in guaranteeing these academics their annual incomes. It means that the future of America is predominantly placed in their hands. The vast majority of young men and women pass through their educational processing. They mold how our sons and daughters see and think about politics, economics, history, moral philosophy, and social institutions.

To put it bluntly, they push our children through an intellectual sieve of collectivism; as a result, these young people leave college with no proper and vital understanding of freedom, self-responsibility, and the character and value of a free society. They enter adulthood unaware of the noble and courageous struggle that was carried on over the centuries in the Western world to establish the legacy of liberty and prosperity that too many of us take for granted.

What applies to government spending on higher

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education of course applies no less to government spending on K–12 schooling as well. Indeed, it can be argued that government's influence at this level is even more disturbing, since these are the most impressionable years, when young minds are shaped by core ideas about their world. Whether it is sex education or conceptions about the environment or even the basic capacity to read and write, the grammar- and high-school years can leave a mark on young men and women for the rest of their lives.

It is not surprising, therefore, that public-school teachers and administrators are opposed to private competitive education during these formative years. Not only would it wrest from them near-monopoly control over the minds of America's youth, but a free market in education would also show the disastrous job the state system has done in preparing the next generation for earning a living in the global economy.

Compare that with the marketplace of everyday commerce, where the sellers of ideas and the products that embody them must demonstrate their value to the buying public. Sellers must prove that what is being offered is worth the price being asked. If they fail to do so, their clientele drifts away; their market share declines; and their incomes decrease. If a seller does not mend his ways, he will finally be driven out of business by those who more effectively serve consumers.

The private seller cannot shout "producer freedom" and claim the right to be protected from the disapproval of his customers. In the free market there is neither tenure nor government-guaranteed income. Every producer and seller is ultimately answerable to those he serves.

This is what makes competition a mechanism for fostering innovation and excellence. Every day, in every way, sellers must constantly try to stay ahead of their rivals in the marketplace. And they cannot forget that new entrants could come into their corner of the market, apply their creative abilities to better serve the consuming public, and earn some of the potential profits from doing so.

Ivory-Tower Existence

It is clear why so many teachers, professors, and administrators show such hostility to business and market competition. And it is no wonder that they despise the profit-and-loss system. To advocate a real marketplace of ideas would threaten their protected government-subsidized utopian, ivory-tower existence.

Defeating "academic socialism," as I call it, will require effort to escape the government's educational control. A growing number of parents in the United States are undertaking that effort, as demonstrated by the expanding attendance at private schools around the country and the increasing numbers of parents who incur the personal and family sacrifices to home-school their sons and daughters. Having lost all confidence in the government schooling system, they have taken more direct responsibility for their children's education.

But what is also needed is a broader understanding of why government should not be trusted with the education of America's youth—from kindergarten through the Ph.D. At the same time, this issue has to be put in a wider context, demonstrating why, in general, government should not be allowed to intrude into and control our personal, social, and economic affairs.

This is what the Foundation for Economic Education is all about. Our task is not simply to show why particular government regulations and programs fail or are counterproductive—though the articles in *The Freeman* do this issue after issue. In our publications, programs, and seminars, we analyze these particular policy questions as a means of providing a wider understanding of the moral, political, and economic principles of liberty without which a free society cannot survive in the long run.

FEE's purpose is to supply the philosophical and economic compass that points to that spot on the social and political horizon representing the free society of tomorrow. Unless we know where we want to go, we can never be sure if we have chosen the right path to get there. Only by knowing where we want to go can we avoid the pitfalls and false scents along the way that would lead us in wrong directions.

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Perspective

Creating Capitalists

Nothing is easier than thinking up ways to dispose of other people's money. Most politicians devote their lives to this activity, but there is a robust amateur division as well. It consists of pundits, professors, and think-tank fellows who focus their energies on turning out endless plans for transferring A's income to B. The details are sometimes simple, sometimes complex. The authors may invoke the latest "social science" theory or a hoary moral philosophy. Often no justification is given at all, as though the merits were self-evident.

Code words may shroud the nature of a transfer measure. The most popular code word today is "affordable," as in, "We must make health insurance (or prescription drugs or housing or any number of other things) affordable." Translated this means: "Some must pay for others."

The beneficiary of the transfer programs varies from plan to plan: the elderly, children, the poor, farmers, corporations, foreign governments, and so on. But the essence of each plan is identical. It calls for officers of the government to require us—under threat of violence if necessary—to surrender the fruits of our labor so that they may be given to someone else. You who have worked to create wealth will not be permitted to use a large portion of it. Your plans for yourself and your family are to be overridden by someone else's plan. It won't be by request. It will be by decree, backed up by force.

The typical advocate of a formal plan to dispose of other people's money isn't stupid. He knows the money will have to be taken from those who earned it, and he knows a threat of force must underlie his plan. He accepts it. Somehow he rationalizes it.

A recent example illustrates the point. David Brooks, the *New York Times* op-ed page's resident conservative, favors a plan in which "the government would open tax-deferred savings accounts for each American child, making a $1,000 deposit at birth, and $500 deposits in each of the next five years. That money could be invested in a limited number of mutual funds, but it couldn't be withdrawn until retirement" when, thanks to compound interest, "over $100,000 [would be] waiting."

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We'll ignore the obvious objections: that those from whom the money is taken won't be able to invest it and that the beneficiaries will have one less reason to save.

For Brooks this plan is not only part of the fix for Social Security; it is also a way to create a social revolution by enabling everyone to own financial assets. The principle is called "asset-based welfare," which seeks, in Brooks's words, to give low-income people "a share of the growing national economy [and] the psychological benefits of ownership."

Brooks exposes the hollowness of the plan when he writes, "The idea is that just as the Homestead Act turned people into pioneers, we would turn more people into capitalists if we distributed capital more broadly."

Had Brooks simply implored philanthropists to voluntarily finance the plan it would have been bad enough. The principle that strangers can teach people lessons about ownership by giving them unearned handouts is palpably ridiculous. Gifts don't build character. Self-generated commitment and work do.

That Brooks wants his plan carried out by the government only multiplies the folly. One doesn't create capitalists by having the government distribute capital—a shameful euphemism for expropriation. Nothing could be more opposite the principles of capitalism, if by that we mean free markets.

Brooks, like many other advocates of that politicized idea "The Ownership Society," has absorbed more Marxism than he thinks. His claims for asset-based welfare betray a belief that one's ideas about capitalism are determined by one's proximity to capital. Give people savings accounts and they'll assume a capitalist mentality, right? But maybe they'll assume an entitlement mentality instead. Considering that they wouldn't have to do anything to deserve the money but be born, that's the more likely outcome.

* * *

Here's something from the man-bites-dog department: A multimillion-dollar art exhibit was placed in Central Park—and it cost the taxpayers nothing! James Payne celebrates.

Many people believe that if Congress doesn't reform the tort system soon, our society will be crushed by the costs of litigation and outrageous damage awards. But is this a problem for the federal government? Robert Levy says, with a few exceptions, no.

The pundits and politicians who incessantly call for Canadian-style national health care in the United States probably never waited in line for medical attention. Nadeem Esmail reports on the latest study of waiting times in Canada's health-care paradise.

In the campaign against even the most modest and partial privatization of Social Security, critics claim that Great Britain's bad experience is proof that tampering with the basics of the New Deal program would be dangerous. So what happened in Britain? Philip Booth has an eyewitness account.

Long-time FEE friend John C. Sparks died recently. In his memory we reprise some of his past writings.

Why would a union seeking to represent immigrant farm workers boycott a pickle company? William Pike demonstrates that there was method in this madness.

A society is in trouble when economic ignorance is widespread. In this FEE Timely Classic, F. A. Harper maintains that economic understanding begins naturally and need only be nurtured.

When a small town on the Kansas plains was about to lose its government elementary school, the residents took matters into their own hands. Mark Ahlseen says the children weren't the only ones to benefit.

Governments don't only inflate money supplies. George Leef sees a parallel between monetary and education policy.

Our columnists' ruminations the past month have yielded the following gems: Richard Ebeling explores academic socialism. Lawrence Reed tells the remarkable story of abolitionist Thomas Clarkson. Thomas Szasz examines university suicide-prevention policies. Burton Folsom discusses the pro-freedom views of Frederick Douglass and Booker T. Washington. Walter Williams gives the first in a series of economics lessons. And Michael Tanner, hearing it averred that Social Security is in good financial shape, responds, "It Just Ain't So!"

This issue's book reviewers dissect volumes on dictators, Isabel Paterson, the drug war, and ancient morality.

— *Sheldon Richman*
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Social Security Is in Good Shape?

BY MICHAEL D. TANNER

Denial, as the saying goes, is not just a river in Egypt.

Gene Lyons, a columnist with the *Arkansas Democrat-Gazette*, is one of numerous opponents of Social Security reform to allege that Social Security is not facing a crisis ("Social Security Alarm Just Another Flimflam," December 15). The program is just fine, able to pay promised benefits far into the future, needing only minor changes after that.

Unfortunately, this sort of political whistling past the graveyard has to confront economic and demographic reality.

First, contrary to Lyons's assertion, the current Social Security system is a "pay-as-you-go" scheme. It is not a savings or investment system, but a simple transfer from workers to retirees. The payroll taxes from each generation of workers are not saved or invested for that generation's retirement, but are used to pay benefits for those already retired. The current generation of workers must then hope that when their retirement comes, the next generation of workers will pay the taxes to support their benefits, and so on.

Obviously, a pay-as-you-go system is sensitive to the number of people paying in versus the number of people collecting benefits. In other words, the ratio of workers to retirees is crucial to the financing of the current system.

The current worker-to-retiree demographics in the United States spell trouble for Social Security and its ability to keep up with its promised benefits. People are having smaller families, resulting in fewer new workers paying taxes into Social Security. And seniors are living longer and collecting benefits for many more years. Add to this the fact that the Baby Boom generation is about to retire and you end up with far, far fewer workers per retiree than when Social Security started.

In 1950, there were 16 workers paying taxes into the system for every retiree who was taking benefits out of it. Today, there are a little more than three. By the time the baby boomers retire, there will be just two workers who will have to pay all the taxes to support every retiree.

Fewer workers for more retirees mean each worker bears an increasing financial burden to pay the benefits that Social Security has promised. The original Social Security tax was just 2 percent on the first $3,000 that a worker earned, a maximum tax of $60 per year. By 1960, payroll taxes had risen to 6 percent. Today's workers pay a payroll tax of 12.4 percent. But it is going to get much worse. To continue funding retiree benefits, the payroll tax will have to be raised to more than 18 percent. That's nearly a 50 percent increase!

Let's look at that financial burden another way. The Social Security payroll tax is already 12.4 percent of wages, or one-eighth of a worker's total annual income. It is the biggest tax the average household must pay. Roughly 80 percent of American families pay more in Social Security taxes than they do in federal income taxes. Despite that already huge tax burden, the payroll tax will have to be increased by nearly half to continue paying benefits. That's a terrible thing to impose on our children and grandchildren.

Lyons and others prefer to gloss over these facts by citing the Social Security Trust Fund. In reality, how-

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ever, the Trust Fund is simply an accounting measure, a promise against future taxes, in essence an IOU. As Douglas Holtz-Eakin, director of the Congressional Budget Office, puts it, the Trust Fund "has no real economic resources . . . . The key moments for Social Security are in 2018. Cash-flow benefits will equal cash-flow payroll taxes, and then after that, the Social Security Administration will have to come back to the rest of the budget for additional resources to pay promised benefits."

Or perhaps, Mr. Lyons would prefer the word of another Arkansan, former President Bill Clinton. In his FY2000 budget, Clinton said of the Social Security Trust Fund:

> These Trust Fund balances are available to finance future benefit payments . . . but only in a bookkeeping sense. . . . They do not consist of real economic assets that can be drawn down in the future to fund benefits. Instead, they are claims on the Treasury that, when redeemed, will have to be financed by raising taxes, borrowing from the public, or reducing benefits or other expenditures. The existence of Trust Fund balances, therefore, does not by itself have any impact on the government's ability to pay benefits.

Lyons suggests that a private insurance company in Social Security's position would be considered "flush." More likely, the company's directors would be hauled off to jail to spend time with Bernard Ebbers. Indeed, it is illegal for private companies to operate the way Social Security does.

Lyons is also one of the people who say that even after Social Security's IOUs are all spent, the system will still be able to pay 75 percent of its promised benefits. He then argues that is not the stuff of crisis. Well, Lyons's reassurances must offer cold comfort to those 30-year-old workers who will be retiring just about the time that Social Security must cut its benefits by 25 percent. Given that half of seniors rely on Social Security for at least half their retirement income, and low-income seniors receive nearly 80 percent of their retirement income from Social Security, the millions of elderly thrown into poverty by those cuts are liable to disagree with Lyons on whether it is a crisis.

Dismal Rate of Return

It is also worth asking how Lyons and other opponents of individual accounts would deal with Social Security's other problems. For example, payroll taxes are already so high that most young workers will receive a dismal rate of return on their money, far less than they could earn in private markets. Does Lyons think that this poor and declining rate of return is a problem? If so, how would he fix it? The current Social Security system also has a variety of inequities that penalize working women and minorities. How would he address those issues? Do Lyons and his fellow individual-account critics have a plan to help low-income workers save and invest more, accumulate real wealth, and pass it on to their heirs?

Finally, while defenders of the current Social Security system often speak of it as a "guaranteed benefit," no such guarantee exists. The Supreme Court has ruled twice, in *Flemming v. Nestor* and *Helvering v. Davis*, that there is no legal, contractual, or property right to Social Security benefits. Retirees are left at the mercy of politicians to determine how much they will receive in retirement benefits. Congress is free to change or reduce those benefits at any time. The critics are quick to point to the risks of market investment. But what would they do to protect against the political risks of a system where you don't own your money or have a right to your benefits?

Ultimately, the only way to fix Social Security's many problems—both fiscal and otherwise—is to change the system from a pay-as-you-go model to one based on savings and investment.

Those who disagree have an obligation to tell the rest of us how they would deal with the grim demographic reality.

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Hurrah for Voluntary Art!

BY JAMES L. PAYNE

My heart sank when I first heard about the New York City art project known as "The Gates." One thousand workers were to put up 7,500 gates along the paths in Central Park and drape saffron-colored fabric from each one. I wasn't reacting to the art. In fact, I hadn't even decided if the project should be considered art. What depressed me was thinking about how it was funded.

I assumed that tax money was involved, and that casts a shadow. The problem is that taxes are funds taken by force and the threat of force; it's always disappointing to see any project, even the noblest, founded on coercion.

But this was not the case. To my surprise, I learned that the $21 million cost of "The Gates" was being entirely paid by the artists, who go by the names of Christo and Jeanne-Claude. This isn't their first large-scale "environmental" art project. They've done 18 such works, including the "Valley Curtain" in Rifle, Colorado; "Surrounded Islands" in Biscayne Bay, Florida; and "The Pont Neuf Wrapped" in Paris. And none of them were tax funded! In each case, they earned the money by selling preparatory drawings of the proposed environmental art—at prices ranging from $30,000 to $600,000—and selling other of their artwork.

It's not just government money that Christo and Jeanne-Claude reject. They refuse any funds that might compromise their artistic independence. They don't take grants from foundations or businesses. And they don't take money from books, posters, films, or videos of the projects after they are completed. They feel that if they had post-production sales in mind when they were creating a piece, that could influence their art. With "The Gates," they have turned over post-production rights and royalties to two nonprofits, Nurture New York's Nature and the Central Park Conservancy.

In economic terms, the project was a remarkable success. In addition to the funds raised for the environmental nonprofits, city businesses gained economically to the tune of an estimated $254 million from the spending of several hundred thousand tourists who came to see the event. And the 1,000 temporary workers who put up the exhibit and took it down earned some extra cash. Significantly, these benefits were an incidental byproduct. It was not the artists' intention to serve society. "We create for us," Jeanne-Claude told a reporter. "We don't create for the public. But, of course, those who like it, that's a bonus for us."

By all reports, the public enjoyed "The Gates." Of course, there were a few critics. One *New York Times* columnist bemoaned the fact that creating the project used up energy and therefore contributed to global warming. A letter writer put him down as a "selfish naysayer" who had been "oblivious to the thousands of people who were bursting with joy and enthusiasm upon viewing this unique phenomenon."

Many people got a lot out of "The Gates," but to my mind, the most moving aspect of it was how it *wasn't* funded. In a day and age where practically everyone thoughtlessly accepts government's coercively gathered funds, Christo and Jeanne-Claude have given the world a shining example of voluntary art.

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Do's and Don'ts of Tort Reform

BY ROBERT A. LEVY

Five years ago a Florida jury somehow conjured up punitive damages of $145 billion for a class of tobacco plaintiffs. Two years later a California jury recommended a $28 billion treasure trove for a single claimant. And in 1998 four major cigarette companies agreed to the grandmother of all awards—a quarter-trillion-dollar settlement to reimburse the states for smoking-related Medicaid costs.

So it goes. Not just tobacco, but guns, asbestos, and a cross-section of American industry described by one think tank as the Mass Tort Monster: DDT, Bendectin, the Dalkon Shield, fuel tanks, silicone breast implants, lead paint, fen-phen, and on and on.

Since 1930, litigation costs have grown four times faster than the overall economy. Federal class actions tripled over the past ten years. Class actions in state courts ballooned by more than 1,000 percent. The U.S. Chamber of Commerce estimates that the annual cost of the tort system translates into $809 per person—the equivalent of a 5 percent tax on wages. The trial lawyers' share—roughly $40 billion in 2002—was half again larger than the annual revenues of Microsoft or Intel. In 2002 the estimated aggregate cost of the tort system was $233 billion, according to the actuarial firm Tillinghast-Towers Perrin. That cost represented 2.23 percent of our gross domestic product. Over the next ten years the total "tort tax" will likely be $3.6 trillion.

When costs explode, proposals for reform are never far behind. So we have been deluged by congressional schemes to curb class-action litigation, ban lawsuits against gun makers and fast-food distributors, cap medical-malpractice awards, and otherwise enlist the federal government in the tort-reform battle.

My objective in this article is not to document that tort reform is necessary or desirable. That has been effectively done by many others. Instead, I want to examine the types of reforms proposed—especially the extent to which they are compatible with our system of federalism.

The underlying premise is straightforward: No matter how worthwhile a goal may be, if there is no constitutional authority to pursue it, then the federal government must step aside and leave the matter to the states. If Congress decides to act, it has to identify authorization for each proposed reform.

One possible source of authority is the all-encompassing Commerce Clause. As the country grew, some people believed that many of its problems required national regulatory solutions. So Congress earmarked a specific constitutional power to justify its ambitious federal agenda. The Commerce Clause was the vehicle of choice.

But the central reason that the clause appeared in the Constitution was quite different. Under the Articles of Confederation the national government lacked the power to regulate interstate commerce. Each state was free to advance local interests and create barriers to trade, without regard to prejudice against out-of-state interests. The solution: a constitutional convention at which, according to Justice William Johnson, "If there was any one object riding over every other . . . it was to keep the commercial intercourse among the States free from all invidious . . . restraints."

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Today, instead of serving as a shield against interference by the states, the commerce power has become a sword wielded by the federal government in pursuit of a boundless array of socioeconomic programs. But just because products are transported across state lines and sold to customers in several states, that does not justify federal intervention. To legitimately invoke the Commerce Clause, Congress must show that federal action is both "necessary" and "proper" to ensure the free flow of interstate trade. When it comes to tort reform, neither criterion has been met. Substantive federal reforms are not *necessary* because the states are enacting their own reforms. Substantive federal reforms are not *proper* because they cannot be harmonized with traditional concepts of federalism.

Tort damages, even if related to a product that crosses state lines, are very different from a tariff on interstate trade. The objective of a tariff is to raise money and favor in-state businesses by discriminating against out-of-state businesses. That maneuver is contrary to our federal system and justifies countermeasures under the Commerce Clause. By contrast, the purpose of the tort system is to redress grievances—a state-based function for more than 200 years. Yes, if a state's tort law favors local constituents, that might implicate the Commerce Clause. But discriminatory laws can still be fixed by implementing *procedural* federal remedies—about which more in a moment—leaving *substantive* tort law in the hands of the states.

Medical Malpractice

Consider the repeated attempts by Congress to impose medical malpractice reform on the states. Legislation that caps malpractice awards and limits attorney fees has been before Congress no fewer than eight times since Republicans took over the House of Representatives in 1995. The hypocrisy on both sides of the aisle has been thick enough to slice. For starters, the Democrats professed their abiding faith in federalism. They were the same Democrats who were apoplectic when the Supreme Court held in *United States v. Lopez* (1995) that states are perfectly capable of prosecuting the possession of guns near schools. Five years later, in *United States v. Morrison*, the Court held that victims of gender-motivated violence could not sue their assailants under federal law. Predictably, both baby steps to rein in federal authority were met by caterwauling from the Democratic left.

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But some Democrats seem to have rediscovered federalism when it comes to medical malpractice. Rep. Melvin Watt of North Carolina, for one, says: "[F]or the life of me, I can't figure out what the federal nexus is." Amen to that. Fans of federalism are happy to welcome Watt and any other latecomers to the fold. And surely the Democrats would be joined by Republicans, eager to affirm the GOP's traditional respect for state sovereignty.

Well, no, actually the Republicans had a change of heart. The President called malpractice "a national problem that requires a national solution." He added that "any time a malpractice lawsuit drives up the cost of health care, it affects taxpayers. It is a federal issue." Rep. Tom Feeney of Florida claims to have "wrestled with the issue" of federal damage caps but decided it would be unfair if doctors, concerned about malpractice, denied treatment to Florida constituents. Local physicians unfairly ignore local patients. How does that raise a national constitutional question?

No doubt, Feeney is correct when he explains that outlandish jury verdicts can drive up insurance premiums and cause doctors to curtail services. And no doubt that scene could unfold in more than one state—perhaps threatening a malpractice mess nationwide. But not every national problem is a federal problem. State legislators, courts, doctors, and their patients are not

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powerless. More than three dozen states have passed damage caps. All 50 states have passed, or are considering, various tort-reform proposals.

Mississippi is a case in point. Three years ago the U.S. Chamber of Commerce warned its members to avoid Mississippi's "jackpot justice." Doctors fled or quit; 71 insurance companies pulled out; and the state lost an $800-million bid for a Toyota plant after company executives wrote that "the litigation climate . . . is unfavorable." The result: a new law, effective September 1, 2004, which caps pain-and-suffering, medical-malpractice, and punitive damages. In addition, plaintiffs have to file suit in the county where they live or where an injury occurred—no more shopping for the friendliest forum. Not bad for a state that became infamous as a "judicial hellhole."

Yet Congress has evidently rejected the federalist idea that the states serve as 50 experimental laboratories, each of which can choose to enact malpractice reforms, or not. Instead, Congress has shamelessly distended the Commerce Clause—unleashing it from the operative word "commerce." By that artifice the federal government regulates anything and everything, including noncommerce—activities like lawsuits designed to prevent or compensate for injuries, not to regulate trade.

That is especially true when we are talking about malpractice suits, in which the litigants—both plaintiffs and defendants—are typically from the same state. Nowhere in the Constitution is there a federal power to set rules that control lawsuits by in-state plaintiffs against in-state doctors for in-state malpractice. Some of the damage awards may be shocking. But they are not commerce and they are not interstate.

If the Commerce Clause applies to anything that crosses state lines, then it applies to virtually everything. That may be the Supreme Court's current view, but it was not the Framers' view. If necessary, let's amend the Constitution. But my preference is to restore sanity to state tort law—grounded in common law, supplemented by state legislatures, interpreted by state courts (or by federal courts applying state law). The system will not be perfect, but competitive state laws are undoubtedly better than monopolistic national rules.

Punitive Damages and the Fourteenth Amendment

Now let me turn to a second possible source of constitutional authority for federal tort reform: the Due Process Clause of the Fourteenth Amendment, which says, in relevant part, that no state shall "deprive any person of life, liberty, or property, without due process of law." If confiscatory state court decisions have the effect of denying due process to tort defendants, federal courts may be empowered by the Fourteenth Amendment to intervene. And section 5 of the amendment authorizes Congress to enforce the Due Process Clause "by appropriate legislation."

The question, then, is whether state courts have deprived tort defendants of due process. Perhaps, for example, a damage award is so excessive that it breaches constitutional safeguards. On the other hand, maybe due *process* imposes no substantive limits on state tort awards, just procedural guarantees like advance notice of the rules and an opportunity to defend oneself. Or maybe substantive and procedural protections merge when damage awards are so capricious and unpredictable that defendants cannot know with any assurance how to conform their conduct to the requirements of the law.

To discuss the Due Process Clause, I turn to the Supreme Court's 2003 decision in *State Farm v. Campbell*, which reversed a bloated $145 million punitive damages award against State Farm Insurance. Many of the principles debated by the Court are applicable not just to punitive damages but to tort reform more broadly.

Ironically, the *State Farm* holding, one of the most business-friendly of the Supreme Court's recent opinions, overcame separate dissents from the Court's conservative stalwarts, Justices Antonin Scalia and Clarence Thomas. That reflects the battle between some conservatives, who want to rein in runaway punitive awards, and other conservatives, who, reluctantly, find no federal judicial power to do so. My conclusion: *State Farm* was a close call, but the majority successfully made its case for federal intervention. That said, there are better approaches to tort reform, as detailed below.

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Let's start with the facts. Curtis Campbell's negligent driving killed one person and permanently disabled another. Campbell himself was not hurt. His insurer, State Farm, refused to settle the case for the policy limit of $50,000. Instead, State Farm elected to litigate and told Campbell he had nothing to worry about. The Utah jury had other ideas and found Campbell liable for roughly $186,000—that is, $136,000 over the policy limit. Campbell sued State Farm for bad faith, fraud, and emotional distress. State Farm ultimately paid the full $186,000, but Campbell was awarded $1 million in compensatory damages and $145 million in punitive damages.

The award was short-lived. Justice Anthony Kennedy, writing for a six-member majority, put it bluntly: "This case is neither close nor difficult. It was error to [grant a] $145 million punitive damages award." The Court said the facts of the case probably justified a punitive award of about $1 million, the same as compensatory damages. The conduct was not all that reprehensible. Campbell was not physically injured. And comparable civil fines for fraud were only $10,000. As to the ratio of punitive-to-compensatory damages—145 to 1—Kennedy made it clear that the Utah courts had overreached. He did not impose a bright-line test, but he did say that few punitive awards should ever be higher than 10 to 1.

That was the majority opinion; now the three dissents. First, Justice Ruth Bader Ginsburg, who accused the Court of judicial activism—substituting "its judgment for that of Utah's competent decision-makers." No doubt the Court does assume a quasi-legislative role when it establishes guidelines for punitive damages. Apparently that bothers some "liberals," like Ginsburg, some of the time—like when a federal court overturns a huge award against a corporation. More often, however, the "liberal" justices are accused of judicial activism, and the conservatives insist on judicial restraint.

Judicial Activism versus Judicial Restraint

Those terms are misleading. Judicial restraint does not mean deferring to a legislature or court that has exceeded its constitutional authority. The crucial question is whether a statute or common-law verdict violates the Constitution. Ultimately, that determination is up to nine justices: not by imposing their own policy preferences—that would truly be judicial activism—but by applying the Constitution, based on a proper theory of that document grounded in the Framers' notions of limited government, separation of powers, federalism, and individual liberty.

To be sure, we are asking courts to decide whether an award is excessive. But judges are frequently called on to make such assessments. Conceptually, an evaluation of excessiveness in the context of a punitive-damage award requires much the same thought process as the interpretation of other murky terms throughout the Constitution, terms like *cruel and unusual punishment*, *probable cause*, *unreasonable searches*, and *just compensation*, which our courts regularly must explain.

Judicial restraint does not mean deferring to a legislature or court that has exceeded its constitutional authority. The crucial question is whether a statute or common-law verdict violates the Constitution.

In *State Farm* no statute dictated the outcome—just the common law of tort, as interpreted by judge and jury. An appellate court is uniquely qualified to review the common-law decision of a lower court. So the real debate in *State Farm* did not center as much on separation of legislative and judicial powers as it did on federalism: whether the U.S. Supreme Court can set punitive-damage guidelines for the state of Utah. And that debate revolves around substantive due process, the doctrine sometimes invoked by federal courts to prevent states from violating substantive rights presumably secured by the Fourteenth Amendment.

Which brings us to the dissents by Justices Thomas and Scalia. Thomas's *State Farm* dissent is little more than one sentence: "The Constitution does not constrain the size of punitive damage awards." Scalia's dissent is not much longer: "The Due Process Clause

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provides no substantive protections against 'excessive' or 'unreasonable' awards of punitive damages." In short, the two justices believe the Constitution guarantees defendants that the process followed in determining a punitive award will be reasonable, but not that the award itself will be reasonable.

Interestingly, Scalia and Thomas could have sidestepped the substantive due process question, but they chose not to. They could have justified federal intervention on *procedural* rather than substantive grounds. Remember that the Court was dealing in *State Farm* with remedies, not with liability itself. Arguably, remedies have more to do with procedure than with substance, in the following sense: Proper procedure requires advance notice of the law. Private parties must be able to determine what conduct is necessary to conform to the law's dictates; and legal outcomes must be reasonably predictable. By violating those norms, outrageous and volatile punitive damages do not provide adequate notice and therefore offend procedural due process. In *State Farm* the Court was correct to intervene.

State-Based Reforms

Meanwhile, the problem of confiscatory state punitive awards can be fixed without trampling on federalism. Let's examine a few alternatives—remedies that can be implemented by the states themselves, without federal involvement.

First, take the dollar decision away from the jury. For example, the jury might be instructed to vote yes or no on an award of punitive damages. Then the amount would be set by a judge in accordance with pre-set guidelines.

Second, limit punitive damages to cases involving actual malice or intentional wrongdoing or, at a minimum, gross negligence. Whatever the heightened standard, the idea is that accidental injuries arising out of ordinary, garden-variety negligence are unlikely to require the deterrence for which punitive damages are designed.

Third, states could implement procedural guarantees like those available under criminal law. In *State Farm* Justice Kennedy observed that punitive awards "serve the same purposes as criminal penalties [but] defendants . . . have not been accorded the protections applicable in a criminal proceeding." Among those protections: a higher burden of proof than the usual civil standard, which is preponderance of the evidence, and no double jeopardy. Current rules allow punitive awards for the same conduct in multiple lawsuits.

Next, broadening the discussion from punitive damages to other areas of tort law, here is a fourth reform: States should dispense with joint and several liability. That is the "deep pockets" rule that permits plaintiffs to collect all of a damage award from any one of multiple defendants, even if the paying defendant was responsible for only a small fraction of the harm. The better rule is to apportion damages according to the defendants' degree of culpability.

Fifth, government should pay attorneys' fees when a governmental unit is the losing party in a civil lawsuit. In the criminal sphere defendants are already entitled to court-appointed counsel if necessary; they are also protected by the requirement for proof beyond reasonable doubt and by the Fifth and Sixth Amendments to the Constitution. No corresponding safeguards against abusive public-sector litigation exist in civil cases. By limiting the loser-pays rule to cases involving *government* plaintiffs, access to the courts is preserved for less-affluent private plaintiffs seeking remedies for legitimate grievances. But defendants in government suits will be able to resist meritless cases that are brought by the state solely to ratchet up the pressure for a large financial settlement.

Sixth, contingency-fee contracts between private lawyers and government entities should be prohibited. When a private lawyer subcontracts his services to the government, he bears the same responsibility as a government lawyer. He is a public servant beholden to all citizens, including the defendant, and his overriding objective is to seek justice. Imagine a state attorney paid a contingency fee for each indictment, or state troopers paid a bonus for each speeding ticket. The potential for corruption is enormous.

Last, state legislators should consider the Fairness in Litigation Act, a model statute proposed by the American Legislative Exchange Council. The act pro-

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vides that the same legal rules applicable to a private claim by an injured party will also be applicable if the government sues to recover indirect losses related to the same injury.

Recall the states' lawsuits against the tobacco industry, intended to recoup Medicaid outlays for smoking-related illnesses. Here is what the president of the Maryland Senate blurted to the *Washington Post* in describing his state's litigation: "We agreed to change tort law, which was no small feat. We changed centuries of precedent in order to assure a win in this case."

Under the proposed Fairness in Litigation Act, the same rules of evidence, the same standards of responsibility, and the same burden of proof would apply to the state standing in a plaintiff's shoes as to a plaintiff suing on his own behalf.

Federal Reforms

Finally, aside from state-based reforms, there are at least two areas where the federal government can intervene without offending long-established state prerogatives. The guiding principle is that the federal legislature and courts are authorized to act when there is a high risk that states will appropriate wealth from the citizens of other states. One federal reform consistent with that principle is to amend the rules that control state exercise of so-called long-arm jurisdiction over out-of-state businesses.

Congress could, for example, preclude a local court from hearing a case unless the defendant engages directly in business activities within the state. A company's mere awareness that the stream of commerce could sweep its product into a particular state should not be sufficient to confer jurisdiction. Companies are "aware" for example, that their products could be re-sold or transported almost anyplace. Instead, jurisdiction should be triggered only if the company purposely directs its product to the state; that is, the company itself exerts control over the decision to sell in the state. A sensible rule like that would give firms an exit option: they could withdraw from a state and thereby avoid the risk of a runaway jury or biased judge, even if the company's products somehow end up in-state. Today, federal limits on long-arm statutes remain lax or ambiguous. For that reason, oppressive state tort laws remain a threat to out-of-state defendants.

There is a second federal reform that is compatible with federalist principles: a new federal choice-of-law rule, which would apply even when a company cannot afford to lose business by exiting from a state. Basically, choice of law is the doctrine that determines which state's laws control the litigation when the litigants are from different states.

Generally, plaintiffs can and will select the most favorable forum state based, in part, on its tort laws. But suppose a federal choice-of-law rule were enacted for cases involving multi-state litigants. Suppose further that the applicable law were based on the state where the manufacturer was located. A manufacturer could decide where to locate, and its decision would dictate the applicable legal rules. Consumers, in turn, would evaluate those rules when deciding whether to buy a particular manufacturer's product. If a manufacturer were located in a state that did not provide adequate legal remedies for defective products, consumers would buy from rival companies.

Would there be a race to the bottom by manufacturers searching for the most defendant-friendly tort law? Maybe. But more likely, states would balance their interest in attracting manufacturers against the interest of in-state consumers, who want equitable product-liability laws. In effect, healthy competition among the states would enlist federalism as part of the solution rather than raise federalism as an excuse for failing to arrive at a solution.

The touchstone of federalism is not states' rights but dual sovereignty—checks and balances designed to promote liberty by limiting excessive power in the hands of either state or federal government. When a state exercises jurisdiction beyond its borders, discriminates against out-of-state businesses, or fails to give companies adequate notice of what is required by the law, the federal government should intervene. Otherwise tort reform is not the business of Congress.

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A Student's Essay That Changed the World

BY LAWRENCE W. REED

As a former university professor, I read thousands of student-authored essays through the years—sometimes joyously, but probably just as often, painfully. Occasionally, the process of researching and writing exerted significant influence over a student's future interests, thinking, and perhaps even behavior. But of all the student essays ever written anywhere, I doubt that any had as profound an effect on its author and the world as one penned 220 years ago at Cambridge.

Throughout Britain the annual Latin essay contest at Cambridge was known and the honor of winning it coveted. The topic for the 1785 competition was prompted by a horrific human tragedy a few years before: Near the end of a long voyage from Britain to Africa to the West Indies, the captain of the British slave ship *Zong* had ordered his crew to throw 133 chained black Africans overboard to their deaths. He reckoned that by falsely claiming the ship had run out of fresh water, he could collect more for the "cargo" from the ship's insurer than he could fetch at a slave auction in Jamaica.

No one in the *Zong* affair was prosecuted for murder. A London court ruled the matter a mere civil dispute between an insurance firm and a client. As for the Africans, the judge declared their drowning was "just as if horses were killed," which, as horrendous as that sounds today, was not a view far removed from the conventional wisdom that prevailed worldwide in 1785. Slavery, after all, was an ancient institution. Even to this day, people who have walked this earth in bondage far outnumber those who have enjoyed even a modest measure of liberty.

Moved by the fate of the *Zong*'s victims and the indifference of the court, the university vice-chancellor in charge of selecting the topic for the 1785 contest at Cambridge chose this question: "*Anne liceat invitos in servitutem dare?*—Is it lawful to make slaves of others against their will?"

Enter a man who, with a handful of compatriots armed only with the printed and spoken word, would clutch the public by the neck and not let go until it consigned slavery to the moral ash heap of history.

Born in the English town of Wisbech in 1760, Thomas Clarkson was a 25-year-old Cambridge student who hoped to be a minister when he decided to try his luck in the essay contest. Slavery was not a topic that had previously interested him, but he plunged into his research with the vigor and meticulous care that, with the passion that his findings later sparked, would come to characterize nearly every day of his next 61 years. Drawing from the vivid testimony of those who had seen the unspeakable cruelty of the slave trade firsthand, Clarkson's essay won first prize.

What Clarkson had learned wrenched him to his very core. Shortly after claiming the prize, and while riding horseback along a country road, his conscience gripped him. Slavery, he later wrote, "wholly engrossed" his thoughts. He could not complete the ride without making frequent stops to dismount and walk, tortured by the awful visions of the traffic in human lives. At one point, falling to the ground in anguish, he determined that if what he had written in his essay was indeed true, it could lead to only one conclusion: "it was time some person should see these calamities to their end."

Adam Hochschild, author of a splendid recent book on the history of the campaign to end slavery in the British empire titled *Bury the Chains*, explains the significance of those few minutes in time: "If there is a single moment at which the antislavery movement became inevitable, it was the day in 1785 when Thomas Clarkson sat down by the side of the road at

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Wades Mill. . . . For his Bible-conscious colleagues, it held echoes of Saul's conversion on the road to Damascus. For us today, it is a landmark on the long, tortuous path to the modern conception of universal human rights." More than two centuries on, that very spot not far from London is marked by an obelisk.

No man can rightfully lay claim, moral or otherwise, to owning another. That became Clarkson's all-consuming focus. Casting aside his plans for a career as a man of the cloth, he mounted a bully pulpit and risked everything for the single cause of ending the evil of slavery. At first, he sought out and befriended the one group—the Quakers—who had already gone on record on the issue. But the Quakers were few in number and were written off by British society as a fringe element. Clarkson knew that antislavery would have to become a mainstream, fashionable, grassroots, educational effort if it had any hope to succeed.

On May 22, 1787, Clarkson's organizational skills brought together 12 men, including a few of the leading Quakers, at a London print shop to plot the course. This tiny group, which named itself the Committee for the Abolition of the African Slave Trade, was about to take on a firmly established institution in which a great deal of money was made and on which considerable political power depended. The broad public knew little about the details of slavery and what it did know, it had accepted for the most part as perfectly normal since time immemorial.

Point Man in Parliament

William Wilberforce is most often given the lion's share of the credit for ending slavery in the British empire. He was the long-time Parliamentarian who never gave in to overwhelming odds, introducing bill after bill to abolish first the trade in slaves and later, slavery itself. Hero he certainly was, but it was Thomas Clarkson who played an important role in persuading Wilberforce to be the movement's man in Parliament. And it was information Clarkson gathered by crisscrossing 35,000 miles of British countryside on horseback that Wilberforce often used in parliamentary debate. Clarkson was the mobilizer, the energizer, the barnburner, the fact-finder, and the very conscience of the movement.

He translated his prize-winning essay from Latin into English and supervised its distribution by the tens of thousands. He gave lectures and sermons. He wrote articles and a least one book. He helped British seamen escape from the slave-carrying ships they were pressed against their will to serve on. He filed murder charges in courts to draw attention to the actions of fiendish slave-ship captains. He convinced witnesses to speak. He gathered testimony, rustled up petition signatures by the thousands, and smuggled evidence from under the very noses of his adversaries. His life was threatened many times, and once, surrounded by an angry mob, he nearly lost it. The long hours, the often thankless and seemingly fruitless forays to uncover evidence, the risks and the costs that came in every form, the many low points when it looked like the world was against him—all of that went on and on year after year. None of it ever made so much as a perceptible dent in Thomas Clarkson's drive.

When Britain went to war with France in 1793, Clarkson and his committee saw early progress in winning converts evaporate. The opposition in Parliament argued that abandoning the slave trade would only hand a lucrative business to a mortal enemy. And the public saw winning the war as more important than freeing people of another color from another continent. But Clarkson did not relent. He, Wilberforce, and the committee Clarkson had formed kept spreading the message and looked for the best opportunities to press it forward.

The effort finally paid off. The tide of public opinion swung firmly to the abolitionists. The trade in slaves was outlawed by act of Parliament when it approved one of Wilberforce's bills in 1807. Twenty-six more years of laborious effort by Clarkson, Wilberforce, and others were required before, in 1833, Britain freed all slaves within its realm and became a model for peaceful emancipation everywhere.

Clarkson died at 86, having outlived the other 11 he had called together at the print shop back in 1787. Hochschild tells us that the throngs of mourners "included many Quakers, and the men among them made an almost unprecedented departure from sacred custom" by removing their hats.

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The Price of "Free" Health Care

BY NADEEM ESMAIL

Many health-reform proposals in the United States are modeled on the Canadian health-care system. The usual claim is that a program similar to the one in Canada would provide all Americans access to the finest medical services while managing to be less expensive than the status quo. Unfortunately, these wonderful visions of socialized health care in Canada tend to ignore the very real costs that Americans in need of medical services would bear if such a program were forced on them.

Wonderful visions of socialized health care in Canada tend to ignore the very real costs that Americans in need of medical services would bear if such a program were forced on them.

In Canada, though it is true that we have "free" access to health care (all medically necessary physician and hospital services are free at the point of delivery, entirely funded by Canadian taxpayers), there is still a real cost to be borne by patients: the time they have to wait for care. To an American, that last statement may seem a bit confusing. Of course, everyone has to wait some time for care because of scheduling. But waiting times in Canada are something entirely different. For example, patients in need of lung-cancer treatment will wait about five and a half weeks from the time their general practitioner refers them to specialists to the time they begin radiation therapy. A patient in need of radiation therapy for breast cancer will wait about nine and a half weeks.[1]

For average Canadians who require something other than radiation therapy for cancer, the waiting times are much longer. To see a specialist in Canada, on average, requires a wait of about eight and a half weeks. Once that specialist decides that a treatment is required, the average wait is nine and a half weeks. This makes a total waiting time of nearly 18 weeks. Canadians must also line up and wait their turn for diagnostic services: five weeks for a CT scan, three weeks for an ultrasound, or a whopping 12 and a half weeks for an MRI.

Wait times for less-critical procedures are even more alarming. Though patients needing chemotherapy for cancer can expect to wait a total of five and a half weeks, those in need of orthopedic surgery (hip replacement, knee replacement, and so on) can expect to wait 38 weeks on average. Patients needing elective cardiovascular surgery wait 11 weeks, while those needing medically necessary plastic surgery can expect to wait almost 36 weeks.

These periods are substantially longer than physicians consider medically acceptable. In 2004, physicians in Canada felt that a waiting time of 5.2 weeks (from the specialist's decision to treatment) was clinically reasonable. As noted, Canadians waited nine and a half weeks on average.

At this point, it should be clear that there is a real problem with the delivery of health care in Canada. But at least those who are not living here have the

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opportunity to avoid instituting a similar program in their country. Canadians, on the other hand, find themselves unable to resolve the waiting-time problem under the current structure of medicare.

Consider the following numbers: since 1993 public-health spending per capita (adjusted for inflation) has increased by 27 percent, while waiting times have increased by an incredible 92 percent.[2] The more Canadians spend on health care in Canada, the longer the waiting times get, a finding that has been confirmed by econometric studies.[3] Canadians have powerful and monopolistic public-sector unions and the inevitable inefficiencies inherent in a public monopoly to blame for that performance. Any short-term relief would come at great cost, while the source of the waiting (a lack of competition and financial incentives for patients) would remain.

Just as troubling, the waiting lists in Canada do not seem to be prioritized in any meaningful way. Patients often receive faster access for "non-clinical" reasons, such as personal prominence or political connections, which partly explains why one study of waiting times found no connection between the amount of pain suffered by patients waiting for orthopedic surgery and the amount of time they waited for treatment.[4] Put another way, Canadians have no choice but to wait, while the length of the wait appears to have little relationship to their actual level of need or discomfort beyond the simple distinctions "emergency," "urgent," and "elective." Moreover, governments in Canada do not allow citizens to use their own resources to pay for faster access to health care, unless they are able to do so outside the country, in the United States or India, for example.

Governments in Canada do not allow citizens to use their own resources to pay for faster access to health care, unless they are able to do so outside the country.

Don't Copy Us

A health-care system modeled after Canada's would clearly not be the utopia that some Americans anticipate. Though there is no doubt that the system provides access to medical services for all Canadians, that access is seriously impeded by long waits. Canadian taxpayers are also not receiving any great benefit from their public monopoly: On an age-adjusted basis, only the United States spends more for health care than we do.[5]

For our neighbors to the south, it would be a serious mistake to adopt the Canadian health-care system. Though it would mean providing all Americans with health insurance, it would also mean forcing them to wait incredibly long times for necessary services. The system in Canada is clearly in need of change and should not be a model for anyone.

1. Nadeem Esmail and Michael A. Walker, *Waiting Your Turn: Hospital Waiting Lists in Canada*, 14th ed. (Vancouver, B.C.: Fraser Institute, 2004). Unless otherwise noted, data are from this book.

2. *National Health Expenditure Trends* 1975–2004 (Ottawa: Canadian Institute for Health Information, 2004) and Esmail and Walker.

3. Nadeem Esmail, "Spend and Wait," *Fraser Forum*, March 2003 and Martin Zelder, "Spend More Wait Less," *Fraser Forum*, August 2000.

4. David A. Alter, Antoni S. H. Basinski, and C. David Naylor, "A Survey of Provider Experiences and Perceptions of Preferential Access to Cardiovascular Care in Ontario, Canada," *Annals of Internal Medicine*, October 1998, pp. 567–72; and J. Ivan Williams, et al., "The Burden of Waiting for Hip and Knee Replacements in Ontario," *Journal of Evaluation in Clinical Practice*, February 1997, pp. 59–68.

5. Esmail and Walker, calculations by author.

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Britain's Pension Problem: Government Failure

BY PHILIP BOOTH

Proposals to privatize part of Social Security have met with an outcry from predictable quarters. Many articles have referred, unfavorably, to British experience and suggested that the United States may simply be following the same failed route as Britain. As a British observer of that debate, I am not alone in finding the parodies of the British pension system, as described in the America media, seriously wanting. There is no question that the system is in deep trouble. But the problems are not caused by privatization. The government has regulated and taxed private pensions to such a degree that companies and individuals no longer find it worthwhile to invest in them. Furthermore, the government provides "means-tested" benefits for over 50 percent of the retired population and has sent a strong message to the populace that increased saving will merely increase their tax bill and reduce their welfare entitlements.

Advocates of private pensions in the United States often suggest that private provision, through stock-market–invested accounts, will lead to greater returns from given levels of contributions. This is because in the long run, shares will outperform the government bonds in which Social Security contributions are implicitly invested. In Britain this argument tends to be downplayed by private-pension advocates, who are more willing to accept the possibility that risk-adjusted returns on different types of assets will, in the long run, be equal.

Some proponents also suggest that private provision will rectify the United States' apparently low savings ratio. Again, this argument is weak. Private provision may increase pension saving but not necessarily overall saving.

The alternative, much stronger arguments for private pensions are arguments about social justice and the security of property rights. (I rarely use the phrase "social justice," but here it is perhaps appropriate.)

> In private systems, conflict between pensioners and workers is avoided because pensioners invest for their retirement when they are working.

The social-justice argument should be clear. Social Security, a "pay-as-you-go" system, involves one generation voting to provide itself with future pensions that will be paid from the taxes of a coming generation. That coming generation is likely to be too young to vote and may not even be born. As a population ages, taxes become a greater burden on the shrinking workforce and conflict opens up between the decreasing numbers paying for pensions and the increasing numbers receiving them. These conflicts cannot be resolved through the ballot box because the pension recipients become so numerous and powerful at elections. The concentrated power of pensioner lobbies makes it extremely difficult to rectify problems in state pension systems. The conflicts can then be played out, sometimes violently, in the streets, as frequently happens in continental European countries with high state pensions (most notably in France and Italy).

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In private systems, conflict between pensioners and workers is avoided because pensioners invest for their retirement when they are working. An invested fund provides security for the contributor through property rights in stocks and bonds. The investments in the fund serve to transfer resources across time. Generations of pensioners who have saved in their youth will then draw down their savings when they retire.

Problems in Britain

There are serious problems in the British pension system. People are saving very little through pension schemes; pensioners' incomes seem inadequate; and a tiny minority of private schemes have become effectively insolvent. Remarkably, in an attempt to justify attacks on reform proposals in the United States, these problems are attributed to the private element of the British system. One article, by Norma Cohen, published last February in *The American Prospect*, appears to be a convincing piece of journalism. The historical description is clear, although a more thorough research of the history of British pensions would have established that the "contracting out" of government pension schemes started in 1959, not in 1988. Her conclusions are clear too: "America contemplates replicating this [British] disaster."

It is impossible, with any objective and serious analysis, to conclude that the system of "contracting out," or privatization, of state pensions, whereby individuals receive a rebate of social-security contributions in return for forgoing the accrual of a state benefit, has anything to do with Britain's pension problems. Yet this seems to be the implication of the critics of the British system.

Cohen says that "on average, fees and charges can reduce pension lump sums by up to 30%." (One can only speculate precisely what she means by *on average*, *can*, and *up to* in this sentence. Normally an "average" would refer to the middle of the distribution of charges, "up to" to the highest level, and "can" to one possible level of charge.) It is true that horrendous levels of government-imposed regulation in the United Kingdom do mean that charges on investment funds are dramatically higher than in the United States. But the rebates of social-security contributions that people receive make allowance for charges.

It is impossible, with any objective and serious analysis, to conclude that the system of "contracting out," or privatization, of state pensions has anything to do with Britain's pension problems.

Serious research on comparative total costs (direct and indirect) in state and private pension schemes certainly does not suggest that state schemes are cheaper—the results are ambiguous. We need to remember that many of the costs of state schemes are hidden because they are imposed on private firms (for example, collection of payroll taxes). State schemes don't have to be marketed because they are compulsory. They rarely communicate with their members—what is the point if their members cannot leave them? I regularly receive one or two updates a year on my pension entitlement in private schemes I have left. My wife, who left the state-run teachers' scheme ten years ago, has never received any communication. Perhaps most important of all, state schemes have no investment costs because they have no investments. Cars without engines are cheap; pension schemes without investments are cheap.

Cohen also levies the charge of "mis-selling" against British institutions selling private pension products—a consequence, she believes, of the privatization initiative. This argument has been used by others opposed to privatization reforms. It must be refuted, and to do so an important subtlety must be understood. The concept of mis-selling relates to a situation where an individual is advised, against his best interests, to buy a financial product by a financial adviser. Under UK law, such an individual must be compensated. Some $25 billion in compensation has been paid to people who were advised to buy personal pensions in the late 1990s. But were these people tempted out of the state scheme and into private pension schemes against their best interests? The answer is

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no. In fact, they were enticed into personal pensions from their company-run schemes, which provided better benefits than both the personal and state plans. That is, they were advised to move from one alternative to the state pension to another.

But that is not the end of the story. Most people in company-run schemes had previously been required by their employment contracts to join their occupational schemes. This was a private, paternalistic arrangement that had existed since the nineteenth century. When the government allowed contracting out of the state pension scheme through individual retirement accounts, it also retrospectively removed from privately negotiated employment contracts the clauses that had required employees to join their company pension schemes. Such people were then enticed into leaving those company schemes to take out personal pensions. The entire pension mis-selling debacle, which is used by some UK commentators as an argument against Social Security reform in the United States, arose as a result, not of privatization, but of government interference in private employment contracts.

Pensions: The Real Problems

The UK pension system is in a mess even if the diagnosis of those who are criticizing the U.S. reforms is wide of the mark. It could be argued that the state should not provide pensions at all. James Bartholomew in his recent book, *The Welfare State We're In*, shows how state pensions undermined saving and alternative ways of looking after the aged, particularly in the case of the poor. The philanthropist Octavia Hill, speaking to a parliamentary committee in the nineteenth century, described proposals for state pensions as "the most gigantic scheme of inadequate human relief ever devised by any human being." We see today that either pensions are inadequate (as in the UK) or tax burdens are rapidly rising up to and beyond 50 percent of GDP (as in continental Europe). The state has promised and not delivered. It has deceived the people. It has practiced "state pension mis-selling" on a huge scale. It has then worked systematically, though not deliberately, to destroy the private pension saving that remains. The real faults with UK pensions lie with government interference and not privatization.

Like Britain, the United States is an overtaxed and overregulated state. It might repeat the mistakes that Britain made. It rather should learn lessons from Britain.

It is impossible to detail the real problems of British pensions in a short article, so I will just refer to some key issues. (For a full discussion, see my and Deborah Cooper's *The Way Out of the Pensions Quagmire*, Research Monograph 60, published by the Institute of Economic Affairs.) Since 1997 the level of means-tested (social security) benefits paid to pensioners has increased massively, and the chancellor of the exchequer, Gordon Brown, has stated that such benefits will continue to rise more quickly than state pensions. The result is that the benefits are no longer just paid to the very poor who have no other source of income. They are paid to half of all pensioners, a figure that is set to continue rising to 70 percent. These benefits are withdrawn as pensioners' private sources of income rise—thus many people have little incentive to save.

The following table (reproduced from *The Way Out of the Pensions Quagmire*) shows, for different levels of return on investment funds (over and above inflation), the return to saving after allowing for the loss of means-tested benefits for a low earner.

Return on Saving for Someone on Minimum Wage Saving £20 per Month

Actual Return, Net of the Pension Credit*
Number of Years of Work and Saving

Real Investment Return	10	20	30	40
2%	-10%	-3%	-1%	-1%
4%	-7%	-1%	1%	2%
6%	-5%	1%	3%	5%

*Net of the loss of government means-tested benefits that individuals will no longer receive as a result of their saving and receiving a higher private income.

Real investment returns are low in Britain at the moment. A guaranteed return of only 2 percent can be achieved from index-linked government bonds. Returns might be higher from other investment instru-

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ments, but if we take the 2 percent figure, we see that the saver actually receives a negative return from investing in private pensions after the loss of means-tested benefits. Small savings by poor people are penalized the most.

The government has also enmeshed the whole pension, social-security, and tax system with interfering regulation and complex benefit-withdrawal provisions. Pensioners face no fewer than 12 different tax and withdrawal rates before their income reaches £35,500 a year. Furthermore, one of Gordon Brown's first acts was to increase the tax burden on pension funds, a move that sucks £5 billion a year out of private funds. This increased the cost of providing a given pension by 10 percent. Also, an individual receiving about £10,000 a year in retirement is likely to be receiving the income from eight different sources—seven from the state. People do not understand pensions anymore. The rational individual opts out and saves through other vehicles—for example, a house purchase.

Regulations surrounding the sale of financial products have increased to the point where advisers will not provide independent financial advice to individuals earning less than £55,000 per year (twice average earnings) because the cost of that advice will be greater than any conceivable benefit. And the opponents of privatization blame the private sector for high costs! (The government has tried to alleviate this problem by promoting low-cost, price-capped products sold without advice known as "stakeholder" pensions.)

One small personal example of regulatory costs illustrates this point. When I wished to invest a very small sum in my employer's pension scheme, I first had to sign forms confirming that I did not want financial advice for the transaction. (These forms are required by the regulator and will have to be stored by the adviser for decades to come.) I then handed over the check. Two weeks later I received a letter asking me to send two forms of identification showing my name and address (for example, a passport and a driving license). This is a result of anti-money-laundering regulations. Apparently I might have made the money by selling drugs. The facts that I had the bank account for nearly 20 years, the pension scheme was set up by my employer and not by me, other regulations prohibit me from touching the money until I am 55, and the sum of money was tiny are all irrelevant. Three weeks later, the contribution was still not credited to the account. And this is all for a small contribution to an *existing* scheme.

Company pension schemes have the same problems. Ever since the late 1970s more and more regulatory burdens and financial risks have been imposed on such schemes by the government, particularly on the ones providing the best benefits—where the benefit is related to final salary. Forty percent of such schemes have been closed down in the last five years. The pursuit of the perfect has been the enemy of the good.

While all these problems have been developing, the government has consistently short-changed those opting out of the state pension system by reducing their rebates of social-security contributions. Financial advisers now tell clients to opt back into the state system.

Privatization has been undermined by stealth. The problems that Norma Cohen, Paul Krugman, and others identify with British pensions have nothing to do with allowing individuals to contract out on a personal basis. The system of contracting out has arguably enabled Britain to build up private pension funds that were the envy of the world only a few years ago. The current problems with British pensions merely indicate that there is nothing so impressive and impregnable that government incompetence cannot destroy it.

If we cannot trust the government, it had better trust the people. It is important not to allow a pension system to become completely bound up in red tape, micro-meddling with people's incomes to achieve social objectives and obsessively restricting people's actions. If the state makes sure that welfare benefits in retirement are sufficiently low, by and large people will behave rationally and sensibly in making private pension provision. Privatizing social security gives people a better, more-secure, and more-just option than relying on the government. The United States should avoid the British mistakes; but it should copy the one thing we have got right—allowing individuals to opt out of the state social-security pension.

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A Sparks Sampler

Editor's Note: John C. Sparks, who died on March 27, 2005, served on the board of trustees of the Foundation for Economic Education for many years. In the mid-1980s, following his retirement from business, he served a term as FEE's president. In memory of this friend of FEE, we reproduce some of what he wrote for The Freeman *over the years.*

"If Men Were Free to Try," February 1977

(Originally published by FEE in 1954)

. . . Let us suppose you had lived in 1900 and somehow were confronted with the problem of seeking a solution to any one of the following problems:

1. To build and maintain roads adequate for use of conveyances, their operators, and passengers.
2. To increase the average span of life by 30 years.
3. To convey instantly the sound of a voice speaking at one place to any other point or any number of points around the world.
4. To convey instantly the visual replica of an action, such as a presidential inauguration, to men and women in their living rooms all over America.
5. To develop a medical preventive against death from pneumonia.
6. To transport physically a person from Los Angeles to New York in less than four hours.
7. To build a horseless carriage of the qualities and capabilities described in the latest advertising folder of any automobile manufacturer.

Without much doubt you would have selected the first problem as the one easiest of solution. In fact, the other problems would have seemed fantastic and quite likely would have been rejected as the figments of someone's wild imagination.

Now, let us see which of these problems has been solved to date. Has the easiest problem been solved? No. Have the seemingly fantastic problems been solved? Yes, and we hardly give them a second thought.

It is not accidental that solutions have been found wherever the atmosphere of freedom and private ownership has prevailed wherein men could try out their ideas and succeed or fail on their own worthiness. Nor is it accidental that the coercive force of government—when hooked up to a creative field such as transportation—has been slow, plodding, and unimaginative in maintaining and replacing its facilities. . . .

How could roads be built and operated privately? I do not know. This is a subject to which none of us directs his creative attention. We never do think creatively on any activity pre-empted by government. It is not until an activity has been freed from monopoly that creative thought comes into play. . . .

"Zoned or Owned?" June 1964

It is natural for a man to attempt to maintain the value of his property. His efforts to accomplish this may run in either of two separate directions. One is the attitude that a law—zoning or urban renewal planning—will preserve the relative status quo of businessmen and property owners within a community, at which point certain men may be quite well satisfied. They want nothing to disrupt their current set of circumstances; they are apprehensive of change because this means work to keep abreast of it. So anxious are they to preserve their present status that they fail to see the zoning action itself brings about an immobilization of full economic motivations. A subsequent decline in values can be expected. This attitude, then, is unreliable, producing the opposite effect desired. . . .

The second attitude is the recognition that real retention of economic values means maintaining the same relative position in a dynamic, moving market. One must swim to keep up with the economic stream.

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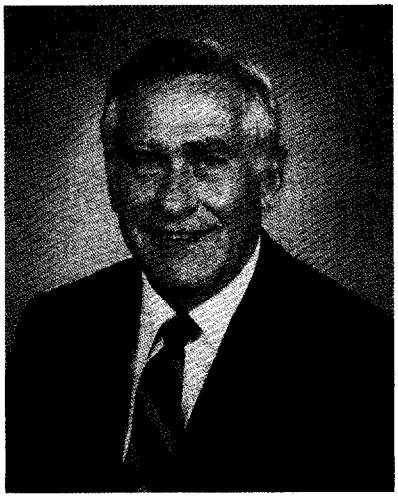
The "game" never ends. Tomorrow is a new day with new economic decisions based upon a satisfaction of tomorrow's wants. Acceptance of this attitude is the key to maintaining one's economic rank. And happily, the competitive road of freedom of choice leads toward the good and vibrant life, and away from economic senility.


John C. Sparks

Regardless of the logic and wisdom of the second attitude, we are lured by the promise of "protection" through zoning laws, not realizing the strong probability that zoning already has contributed substantially to the economic decline of cities. Then absurdity is added to absurdity as misdirected government adopts more error to cure the problem caused by its first error. The fallacy of zoning is surely the forerunner of its bigger evil, the fallacy of government urban renewal. Zoning and owning are incompatible. Since the former is an interference with ownership, zoning at best is a "respectable" mid-twentieth century form of theft of an owner's right to own. Whenever the right to own is removed, restricted, or eroded in any manner, society inclines toward a lower level of economic goods that is matched by a lower level of spiritual and moral values.

"Who Shall Carry My Load?" February 1980

The free market seems to be gaining economic and political favor. But if this is to be more than a passing fad, the full implications of the term must be clearly grasped.

Those who will learn to understand the workings of a free market will find that it can exist to its fullest material advantage only in a society of individual independence and responsibility. A deeper penetration of the subject also brings recognition that any infringement of independent decision-making is not only unproductive in a material sense but is also immoral. It is immoral to place the load one is responsible for on the back of another without his willing consent.

Contrasting pictures emerge. One is an unfree, governmental-interference type of society. This is a society where each is required by government to carry on his back the load of all others—an awkward, nonproductive, and painful way to function. Particularly is it nonproductive when those who are able and willing to produce the most in goods and services for themselves and for others are allotted the heaviest burdens, thus restricting their efforts.

On the other hand, a free market society is one in which each is solely responsible for his own load. Only insofar as his own judgment and conscience dictate does he share the burden of another. Unhampered, he finds that his expanded production can benefit himself only as it benefits others—a mighty important, but key difference—since his personal consumption is very minimal compared with the improved quality of life his production brings to all others.

In selecting which society I prefer, I may well ask, "Who shall carry my load?"

When measured by the most productivity for the benefit of all, the answer must be that of a free market society—no one, but me!

When measured by the moral principle of assuming my own responsibility, the answer must be that of a free market society—no one, but me!

Both demand that I carry my own load. To start, let me remove from others any of the burden of my responsibility now carried by them.

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The Mt. Olive Pickle Boycott: Misidentifying the Enemy

BY WILLIAM E. PIKE

Yellow and green jars of Mt. Olive Pickles are a familiar site in grocery stores throughout the southeast and beyond. As the second-best selling brand of shelf-stable pickles in the United States, Mt. Olive Pickle is especially prominent in its home state of North Carolina, the source of one-third of the 120 million pounds of cucumbers purchased each year by the company.

Mt. Olive, and its 500 to 800 employees, make pickles. It does *not* grow the cucumbers from which its pickles are made. Instead, it buys cucumbers from independent growers in North Carolina and elsewhere. This system—from cucumber grower to pickle producer to consumer—seems simple and benign enough. However, for five years this economic relationship had been the unlikely target for boycott by an activist group called the Farm Labor Organizing Committee (FLOC).

The origin of this boycott can actually be traced back to 1952, when the federal government instituted the H-2 program, allowing the attorney general of the United States to import foreign workers in times of labor shortage. The Immigration Reform and Control Act of 1986 changed this program into H-2A, the "guest worker" program still in place today.

H-2 and H-2A have allowed the evolution of a system of immigrant labor that can encourage grave abuses by employers. Though many landowners treat their immigrant hires with dignity and due care for their welfare, the very structure of the H-2A system opens the window to abuses. Since immigrant workers under this system cannot sell their labor to another employer if they so desire, but are instead tied to one employer only, some are indeed treated poorly. Examples abound of immigrant employees cheated out of wages; denied adequate rest, food, or water; given no medical care on suffering injuries; and so on. Such abuses are morally wrong, but it must be noted that they are *not* tied to the free market. Quite to the contrary, they are linked to an outdated government program that allows a slavery-like system in lieu of free-market competition.

Instead of attacking the real root of the problem, however, activists with FLOC in 1999 decided to chase after a shadow by initiating a boycott of Mt. Olive Pickle products. Why would FLOC choose to boycott Mt. Olive? I have had occasion to pose that question to various activists myself over the past few years, including those deeply involved in the boycott. I have always received the exact same answer: "We have to start somewhere."

On the face of it, FLOC's boycott of Mt. Olive labors under the following logic. Immigrant laborers must unionize to better their lot. In practical terms, unionization can only happen with the acquiescence of the landowners who employ migrants. Finally, the employers will not act unless pushed by an entity with power over them, namely, their main customer: Mt. Olive Pickle.

More specifically, FLOC's website provides this answer to the question, "Why did FLOC target the Mt. Olive Pickle Co.?":

> FLOC has organized the Ohio and Michigan operations of Mt. Olive Co.'s competitors, such as

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Vlasic Co., Heinz USA Corp., and Dean Foods Co., which includes Aunt Jane Co. and Green Bay Co. The history of other industries, like manufacturing, shows us that if we do not organize in the South, companies will shift production to take advantage of lower standards of pay and working conditions.

In other words, realizing the power of the market, FLOC knows that once unionization has begun, it cannot rest until it has been implemented across an entire market sector or industry. Of course, just why FLOC decided to target *cucumber* farming in the first place, instead of the myriad of other possible agricultural endeavors, remains a mystery.

Somehow, though, this product has become a symbol for economic "reformers." As one activist used to tell me, "We won't succeed until we all pay five dollars for a cucumber." By this she really meant that all produce should cost more than it does. She believed that there was a direct correlation between low retail prices for food and low worker wages. She refused to entertain the theory that higher prices across the board would simply hurt the economy in other ways and not increase overall utility. In fact, higher cucumber prices, under an H-2A–dominated system, wouldn't help most workers in the field at all.

Such activists would do well to remember Henry Hazlitt's maxim from *Economics in One Lesson*, "The art of economics consists in looking not merely at the immediate but at the longer effects of any act or policy; it consists in tracing the consequences of that policy not merely for one group but for all groups." But in the rush to make an example, or just to make trouble, flawed economic concepts become "issues" worthy of negotiation.

And indeed, the FLOC boycott did bring about negotiations. With continued negative press from the boycott—picketing of selected grocery stores, endorsements of the boycott by universities and religious denominations, and the like—Mt. Olive, as well as the North Carolina Growers Association (NCGA), which represents the state's 1,000 independent growers, were brought separately to the negotiating table.

Mt. Olive had been adamant for years that it was simply none of its business whether or not a grower's employees were unionized. The company chose only growers who signed compliance statements that they were acting in accordance with all applicable state and federal laws, and took other steps to ensure that it purchased cucumbers from law-abiding growers. But in the end, the topic of organizing workers was one the company had no say in, nor did it wish to have a say.

Agrees to a Plan

After five years of FLOC pressure, however, Mt. Olive agreed to a plan whereby it 1) expanded its code of conduct for North Carolina growers; 2) increased cucumber prices paid to suppliers by 2.25 percent annually for three years; and 3) provided a 3 percent annual supplement to growers providing workers compensation insurance coverage. At the same time, the NCGA negotiated a collective-bargaining agreement with FLOC, effectively unionizing the immigrant workers. With these two agreements in place, FLOC called an end to its boycott of Mt. Olive Pickle Company last September.

Apparently, the FLOC boycott did little to hurt Mt. Olive's bottom line—after five years, jars of the company's pickles still line store shelves as they did in the 1990s. However, now that the boycott is over, chances are those same pickles will cost a bit more. Someone has to pay the extra cost, be it consumers, investors, Mt. Olive employees—or all three groups combined. And the migrant workers? Some may be better off, or maybe not. The main cause of their problems *still* has not been addressed—H-2A. Maybe someday labor activists will wake up to the fact that the free market is not their enemy—government bureaucracy is. But I wouldn't bet the cucumber farm on it.

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College Suicide: *Caveat Vendor*

BY THOMAS SZASZ

Nulla poena sine lege (no penalty without law). The rule that a person cannot be penalized for doing something that is not prohibited by law has long been viewed as a fundamental principle of free societies.

American criminal law does not prohibit suicide. *De jure*, it is legal to kill yourself. *De facto*, if you do so, others may be punished, and punished harshly. Our legal system often holds *innocent individuals and institutions* responsible for the "self-murder" (as it used to be called) of persons whose suicides they were supposed to prevent. This perversion of the law is destroying the moral and legal fabric of our society.

For centuries, suicide was a grave sin and a capital offense. The suicide as well as his family were harshly punished by both ecclesiastical and secular-legal sanctions. Today, the successful suicide is exonerated of self-murder with an automatic posthumous diagnosis of mental illness, and his family may be enriched by imputing guilt for his "wrongful death" to innocent third parties. The unsuccessful suicide ("suicide attempter") is also automatically considered mentally ill; he is stigmatized as insane, deprived of liberty by psychiatric incarceration, and subjected to involuntary psychiatric "treatment."

Pro forma, suicide has been decriminalized. *De facto*, suicide has been "criminalized" by turning the nonprevention of self-murder into a tort (civil-law offense). Contemporary mores and civil law define colleges, for example, as standing *in loco parentis* to college students; the students are cast in the role of standing *in loco infantis* to college personnel; and the substitute "parents" have the duty to prevent the child-students' suicides and suicide attempts.

A report in the October 15, 2004, issue of the *Wall Street Journal* was titled: "Some colleges try zero-tolerance toward suicide attempts." Normally, we use the term "zero-tolerance" in connection with illegal acts, such as trafficking in prohibited drugs. Here the *Journal* casually uses it in connection with acts that are not only legal but usually are not "suicide attempts" at all.

We learn that at the University of Illinois, for example, the "frontline . . . of the [suicide prevention] program consists of about 1,000 people—from dorm staff to deans—who are required to file a formal suicide report any time they hear about or witness a threat or attempt." What is there to prevent Alice from denouncing Elizabeth, claiming that she has talked to her about suicide? Of course, Alice is considered to be protecting Elizabeth, not denouncing her. And Elizabeth is being given an "option"; she is not punished.

A female student at the university picks up a power cord from a light fixture and wraps it around her neck in front of her boyfriend. He calls 911. University officials tell the student: "Meet with a mental health counselor for four sessions or don't bother coming back to school the following semester. . . . [T]he university has a zero-tolerance rule with suicidal behavior."

The university is an old institution. Through centuries—when the pupils were much younger than they are now—the student's suicide was not the business of fellow students, teachers, or university administrators. Why is it now? Because formerly the student who killed himself sinned. Now we say he was sick. And we don't punish illness. However, we do punish physicians who treat a sick patient "negligently"—and we have turned universities into therapeutic institutions for their students.

Paul Joffe, the psychologist who heads the University of Illinois's suicide-prevention program, explains: "We may have had a program of 'invite and encourage,' but

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the students had their own program of 'resist and refuse.'" In fact, college suicide-prevention programs have nothing to do with preventing suicide: they are charades that give the illusion that the "responsible" parties are behaving responsibly. In the process, they punish the students. "I'd rather get sued for saving a kid's life than for ignoring a kid's life," declares William L. Riley, the university's dean of students. In practice, "saving a kid's life" from suicide typically means that he is stigmatized and locked up as mad.

As matters stand, the college's liability for the student's suicide is a given. This is a recent cultural and legal development. Epitomized by the tobacco litigation, American civil law is standing the classic free-market principle *caveat emptor* on its head: *Caveat vendor!*

The law classifies suicide as a "wrongful death." Formerly, the term "wrongful" qualified the conduct of the person who killed himself. Now, it qualifies the conduct of the individuals and institutions that fail to prevent the suicide from killing himself—while he is assumed to have been temporarily insane.

The Illusion of Protection

Colleges cannot compel students to attend classes, much less to learn; they can only fail them. *Mutatis mutandis*, colleges cannot compel students to report to mental-health professionals, much less to undergo "counseling"; they can only suspend or expel them. The assumption behind such "therapeutic" coercion is that it is an effective method of preventing suicide. There is not a shred of evidence for this. In fact, evidence indicates that coercive psychiatric suicide prevention increases the incidence of suicide.

Frederick K. Goodwin and Kay Redfield Jamison—enthusiasts for suicide prevention and the authors of the major psychiatric textbook, *Manic-Depressive Illness*—write: "[Some psychiatrists] found that 7 percent of the patients in their sample had committed suicide *while in a psychiatric hospital*. [Others] reported an even higher rate: 27 percent of manic-depressive patients killed themselves *while under hospital care*." (Emphasis added.) If incarcerating individuals in insane asylums (and prisons) cannot prevent their killing themselves, how can college personnel prevent the student suicides?

The testimony of individuals subjected to psychiatric incarceration is relevant in this connection. French writer Antonin Artaud (1896–1948) declared: "I myself spent nine years in an insane asylum and I never had the obsession of suicide, but I know that each conversation with a psychiatrist, every morning at the time of his visit, made me want to hang myself, realizing that I would not be able to slit his throat."

We deceive ourselves about the basic, unchanging and unalterable facts of life. Every period—childhood, youth, adulthood, old age—has its travails and tribulations. One of the most difficult periods is youth and young adulthood, when the individual—no longer a child, but not yet a mature adult—is expected to complete the difficult voyage from carefree childhood to responsible adulthood. This voyage may be eased or hindered by others—parents, siblings, teachers—but, in the end, each person must make it on his own. The wonder is that so many do make it, not that some don't. Treating university students as potential mental patients will insure that many more won't make it. Sadly, that may be the intended, not the unintended, consequence of all psychiatric policies preventing mental illness and promoting mental health.

For the subject, suicide is, ipso facto, a solution for the problems he faces. For the psychiatrist, suicide of the Other—not his own, which is frequent—is a disease to be treated and cured. That disjunction is the source of much perplexity in psychiatry, much profit in law, and much unnecessary suffering for the public.

Suicide is an act, not a disease. Preventing suicide—like preventing drunkenness—is the responsibility of the college student, not the college administration.

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The Roots of Economic Understanding

BY F. A. HARPER

The game of economics in the United States is something like a ball game where the home team fails to score. The record shows a lack of economic understanding. Despite the abundance of material splendor parading before us in the show of ostentatious consumption, we seem to be losing most of our games in terms of economic principles.

The human weakness for watching false economic scoreboards reminds me of an astute observation by a man who was reviewing the state of affairs in the nation he governed. He said to a subordinate:

> It gives us also a special, secret pleasure to see how the people about us are unaware of what is really happening to them. They gaze fascinated at one or two familiar superficialities, such as possessions and income and rank and other outworn conceptions. As long as these are kept intact, they are quite satisfied. But in the meantime they have entered a new relation; a powerful social force has caught them up. They themselves are changed. What are ownership and income to that? Why need we trouble to socialize banks and factories? We socialize human beings.[1]

Was he right? Are people fooled that easily?

The man who made that statement apparently knew well the game of attaining personal power by playing on the weaknesses of human ignorance. He was Adolf Hitler, and he was speaking to Hermann Rauschning in 1934. The tragedy that befell the German people and later engulfed much of the rest of the world attests to the consequences of economic ignorance. It illustrates how the fruits of welfare will surely be lost when Mammon is worshipped to the exclusion of economic and moral principles. For Mammon—grasping for material welfare by any means—is a tricky idol. If given a dominant role, it will rule conduct to the exclusion of morals.

Economics has been defined as the dismal science, and most people avoid its study if possible. Yet it is something which touches the life of each of us, closely and continuously. In fact, we become so involved in economic affairs at so early an age that we come to take it for granted like the air we breathe and the ground we walk on.

One is reminded in this respect of the history of the development in other spheres of human interest. From the time human life began, air and ground were here more or less as they are now. Our distant ancestors took them for granted just as most people do economics. Not until the discovery of elements in chemistry and of laws of the physical universe did matter come to be thought of consciously and meaningfully. Only then did principles evolve that were worth studying. Only then did our physical environment come to have a useful meaning unknown to our earlier ancestors. Before that, chemicals were just something to stand on, swim in, or for filling one's lungs.

So it is with economics. We could go on, after a fashion, swimming around in economic ignorance as the caveman did with the chemicals. Or economics could be raised to the level of a science and comprehended in terms of cause and consequence. This would put meaning into our daily affairs and afford us

The late F. A. Harper was a member of FEE's staff in the early years. He went on to found the Institute for Humane Studies. This article appeared in the November 1955 issue of Ideas on Liberty.

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the protection of understanding in our hazardous economic existence. From the dismal science for the few, economics could become the common knowledge of the many.

Though I am not now trying to outline the content of economics in detail it seems necessary to pinpoint to some extent what we mean by economic understanding. What is this thing we need to offer educationally? What is economics?

The study of economics is the study of all matters pertaining to things that are desired but scarce, which exist for trade or can be produced. Those are the things we sometimes speak of as "economic goods and services." Those are the things which comprise economic activity in its entirety, which are being produced and owned and traded.

The study of economics is the study of all matters pertaining to things that are desired but scarce, which exist for trade or can be produced.

A thing must first be desired before it comes within the orbit of economics. You can't sell the measles, for instance. If it is to be economic, somebody must want it. Without want for it, nobody would work to produce it or sacrifice to buy it. And even if it already existed in nature—obtainable merely for the asking—without requiring any work to produce it, nobody would care enough to own it. Since nobody would care to own it, there would be no buying and selling of it—no exchange. No economics.

To be within the economic domain a thing must also be scarce. Otherwise, if one can have all he wants without turning his hand to get it, it is not worth even a scrap of paper to represent one's title to it even though people want it strongly. So without scarcity there will be neither ownership nor exchange of it at any price. The air we breathe as an essential to life, for instance, is not usually scarce enough to command a price.

So unless a thing is both desired and scarce, no bargain basement is low enough to attract any customers. But there is a third feature, too, that is required of things before they are economic. A thing may be both scarce and desired, yet not enter into these economic processes. Faith, dreams, and imagination often focus on things which are difficult to put in a form that can be traded. Heaven, for instance, is not listed for sale—as such—in the mail-order catalogs.

So measles and fresh air and heaven are not generally for sale over the counters, yet the reasons for their absence differ. Each of them has certain qualities requisite to economic things—each is desired, or scarce, or producible and available for trade—but not every requisite is present. Lack of any one of the three keeps an item out of the economic arena of human affairs.

Even in infancy the child is a budding economist. We do not know precisely when he first ponders problems of value and distribution, and the law of diminishing returns. Probably the age when this first appears varies widely from child to child. But I suspect there is economic consciousness in most of them at a very young age, and long before we as parents realize that it is there. Some child psychologists assert, for instance, that when the infant clings to his bottle of milk, he is asserting a rudimentary sense of economic perception—a consciousness of something which is desired by him and also scarce.

I wonder, in fact, if an economic sense doesn't really arise before the infant treats his bottle of milk as something desired and scarce. I wonder if the beginnings of economic consciousness may not be at the time when the child first attains his vague sense of the self-conscious. For if we apply the economic test, self-consciousness itself seems to qualify as a matter of economic consciousness. Let me explain why I think so in terms of the three tests of economic affairs already listed.

Are you desired? You certainly are. You are desired by yourself to whatever extent you have any pride and conscience. And, in addition, you are desired by others, by your family and your friends, for both economic and other reasons.

Are you scarce? Exceedingly so. There is only one of you, and there can never be any more. In the sense of being reproducible by exact duplicate, you are as scarce as the Hope diamond.[2]

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Are you exchangeable or capable of being traded? Yes. In our society, of course, we do not allow one person to own or to buy or sell another. But the person who owns himself as a free man may offer to serve another; he may offer his time and effort in exchange for a wage. Or, instead of offering his services for hire, a person may work for himself and offer for sale whatever he has produced.

So in making yourself available for trade in the form of little pieces of your time, your effort and your life, the third and final requirement that marks you as an item of economic concern has been fulfilled. You are not only desired and scarce, but you are capable of being traded as well. The difference between you and a bushel of wheat in this respect is that you own yourself and control your own sale whereas the wheat does not. And this difference has to do only with *how* you are involved in economic matters, not whether you are involved in them.

That is why it seems to me that the most elemental form of economic consciousness originates in the remote recesses of early life when one first becomes self-conscious. This must be at a very tender age. Psychologists tell us that the first vocal effusions of the baby, which keep his parents awake at night and disturb the peaceful quietude of the community, is in part an expression of self-consciousness as he loudly proclaims in his own way: "Here I am." From some such beginning, he will go on to increase in economic consciousness until finally it takes on quite tangible forms in his mind and life.

When a baby clings to his bottle of milk, he is evidencing a sense of possession more advanced than that of mere self-consciousness. He has then taken another important step in economic comprehension. Something specific other than himself has become desired and scarce. And only by realizing this is he ready to begin to act wisely from an economic standpoint.

This sense of worth as applied to overt economic objects appears in strange ways at first. The infant may scramble to retain possession of a toy. It may be only some old can or perhaps some crude block of wood that fell from father's carpentry. But he wants it. And in laboring to retain possession of something he deems to be his, he is acting like the farmer who will labor to protect a bushel of potatoes he has grown. Oldsters may ridicule his selection and scorn his judgment of value, but they should not scorn the child's growing sense of valuation because it is a necessary early step in this budding economist.

This new sense of possession should be nurtured while the infant is advancing in economic understanding beyond his earlier elemental sense of self-consciousness. If you quell it by economic diseducation, such as by grasping away from him things that are his to appease his squealing brother, you will in my opinion be preparing the little hopeful for blind devotion to communist-socialist doctrine—or perhaps to some other brand of Jekyll-Hydeism which will cause him to live in hopeless economic frustration.

Then, a little later in the child's life he comes to acquire a sense of exchange. This sense of exchange can come to him only after he has first acquired the sense of possession. Things to be exchanged must obviously first be had. They must first be possessed before they can be traded. So the sense of exchange follows the sense of possession, the private property concept.

As a child develops his desires, he expands, from his bottle of milk or an old can or a block of wood toward caviar and fancy cars and yachts. His sense of possession expands, in other words, as his taste and desires expand. He also grows in strength and dexterity with which to get things in one way or another.

If this expanding urge to possess things, together with increasing strength and cunning to acquire them, is devoted exclusively to a sense of possession with no consideration for the rights of others, the young hopeful will become the lowest form of thief. Such a person will have acquired a sense of grasping but not a sense of exchange, because he lacks restraint. He will be bent on scheming to grasp everything he can, by any means whatsoever. He will devote himself to the theft of whatever strikes his fancy, which totally disqualifies him for participation in an exchange society. He is then a representative of the ultimate in economic illiteracy as well as the worst in moral turpitude. Such a person will have become a master at breaking the commandments, as one can see by thinking of them in the light of an unrestrained sense of possession.[3]

The Jesse Jameses? The Al Capones? The Dillingers?

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Did they have a sense of possession? Most assuredly they did. But they evidenced little sense of restraint. Theirs was an arrested sense of possession which turned them into moral corpses plying their trade of plunder. We would have to grade them low in economic understanding, because they had only the rudimentary disposition to possess things, without the sense of restraint which must underlie the idea of exchange.

The sense of restraint which the chronic thief lacks is founded in the right to own things—the right of ownership, of private property. There is far more to the sense of ownership than the mere disposition to possess things. This economic sense of rights to private property, which leads to restraint from theft, is clearly a moral concept in harmony with the eighth commandment, among others. You would not steal except as you covet what belongs to another—unless you refuse to recognize it as his private property.

You can have private property only as you are free—free to work, free to produce, free to keep whatever you have produced.

Back of the belief in private property, in turn, lies the concept of personal freedom. You can have private property only as you are free—free to work, free to produce, free to keep whatever you have produced. Without freedom there could be no private property at all.

And so we have completed the economic circle of logic, beginning with a sense of self and ending in private property. The infant's sense of self-consciousness can be traced onward to private property rights and exchange to freedom itself—as concepts which underlie and pervade both economics and morals.

At the outset it was said that in the United States the scoreboard showed a serious lack of economic understanding. Why? These are tests that may be used:

1. To what extent is a person free to use his own life and time in whatever pursuits he may choose, so long as in doing so he does not trespass upon the same right of each and every other person?

2. To what extent is a person free to keep whatever he has produced with his own time and effort, and to use it or dispose of it in whatever way and whenever he wishes, so long as in its disposition he does not infringe upon the same rights of others?

It should be clear from these tests why I reject figures on national income per person, or the number of chickens in dinner pots, or the number of fancy cars on the road as valid evidence for the economic scoreboard. These are merely illusions of economic victory. They are pleasant fruits that grow best on a sound economic tree, to be sure; but the yield of those things may be high for a time after the tree has become infected with a mortal disease.

By these tests the home team has been losing since the turn of the century. Less and less of a person's time is truly his own. Ever smaller is the portion he may use as he chooses, in ways that do not infringe upon the same rights of others. If you are an average person in the United States, for instance, you have to work from New Year's Day until late in April before you have satisfied the prior tax claims upon your productive effort—taxes that are taken from you by force and applied to uses of which you may or may not approve. Furthermore, your period of servitude probably is extended in that you pay tribute in one way or another to some nongovernmental persons or organizations in ways which a thoroughly free society would not countenance. Only thereafter, for the remainder of the year, are you free to work for yourself.

We are losing the economic game because a third of your income each year, if you are an average person, is taken from you in this manner. Some is taken direct from your employer, who takes it out of your pay before it ever gets into your hands. Some is taken in the form of a tax on manufacturers or distributors, and is part of the purchase price you pay for things you buy. Some is taken in the form of direct taxes, which are billed to you personally as an attachment on your income or your property. Some is taken from you posthumously as the hearse moves down the street, in the form of a bill sent to your widow and children. The third of your income taken from you in these ways is a greater proportion of the national income, mind you, than the

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amounts that were being taken in 1929–30 in countries which subsequently were overcome by the tragedy of authoritarian governments, in one degree or another:[4]

Taxes as Percentage of National Income

USSR	29
Germany	22
France	21
United Kingdom	21

We are losing the economic game because we have increasingly adopted as the law of the land specific measures advocated by Karl Marx and his ideological successors as the means by which world communism could be established.[5]

We seem blind to these danger signals as we move about amidst so much material splendor, which is only possible because of past thrift and productive accumulations of individuals. We are blinded by economic and political ignorance in the manner Hitler explained so well to Hermann Rauschning in 1934. We are blinded by the confused intellectual leadership of "economists" who are trying to be politicians, while politicians are trying to be economists.

Lest we ignore or forget, here are a few passages from the record of history given us by Lactantius, the famous Roman professor of literature and philosophy, appointed to his chair by none other than Diocletian himself. Lactantius felt compelled to give us these facts, "lest the memory of events so important should perish, and lest any future historian of the [Roman] persecutors should corrupt the truth."

> Diocletian, an inventive criminal and a creator of evil, brought ruin to all and dared tamper even with the Divinity. In part because he was greedy, in part out of fear, he turned the whole world topsy-turvy. He brought three associates into his government, and divided up the Empire into four parts, with the result that armies were multiplied, for each of the four men tried to muster a far greater force than earlier emperors had had when they governed individually. More than that, tax collectors began to outnumber taxpayers, and, after exorbitant taxation sapped their initiative, farmers abandoned their farms and plowed fields grew up into woods. In a policy of terrorization the provinces were cut up into scraps, a multitude of governors and hordes of directors oppressed every region—almost every city; and to these were added countless collectors and secretaries and assistants to the directors. Judges seldom had civil cases before them: they tried (not frequently, but incessantly) condemnations, confiscations, and requisitions of every kind of property, and unbearable inequities in the imposition of taxes.
>
> Even the measures designed to provide salaries for the soldiers were beyond endurance. Diocletian's boundless greed would never allow his own treasury to be tapped, so he constantly piled on new taxes and contributions in order to keep his personal hoard intact. When by his general mismanagement he caused stupendous inflation, he attempted to fix prices by law. Blood was shed over common, cheap articles, panic caused shortages in the market, and the net result was that the scarcity was worsened....
>
> He became a raving lunatic in his efforts to make Nicomedia the rival of imperial Rome. I shall not state here how many perished for the sake of their estates or their wealth (for this practice had become common and indeed practically legal), but he made a special point of it in that no matter where he saw a farm more carefully kept or a house more elegantly furnished than usual, he immediately brought charges against the owner and inflicted the death sentence—it seemed as if he could not steal his neighbor's property without also taking his life.[6]

When can we begin to teach economics to the young? And how? Without attempting to go into that here, I might cite two incidents to suggest the solution as I see it:

In the eastern university where I taught years ago, our graduate seminar invited outside speakers. One day I invited a renowned economist, the editor of a learned journal. We had agreed that he would try to instill an enthusiasm for economic theory into those graduate students of an applied area of economics by giving us evidence as to its practical usefulness. My notes of his talk attest to the fact that few of these students grasped

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hardly a thing of what he said, except his self-demonstrated assertion that economic theory is a luxury which only the most advanced students can afford.

Then, one evening years later, while members of my family were sitting at dinner discussing something, a five-year old boy asked, out of the clear and without any apparent connection with the discussion that had been going on: "Why do we have to pay for things?"

Well, there you have it. We are losing the game to economic ignorance year after year, while being lulled into complacency by watching false scoreboards and basking in false economic glories. Yet youngsters are itching to go out for economic spring practice, so to speak. What are we going to tell them? Are we going to say: "Wait fifteen or twenty years, Bud, and if you become an outstanding student, you may be ready to find out why we have to pay for things"? Or shall we train them in sound economic practices from the day they are born?

It is later than we think, I fear, in this economic game. Fifteen or twenty years could bring economic and moral disaster beyond our worst fears. The records of history attest to this threat. My final admonition is that every aspiring leader review the records of history, especially as interpreted by such authorities as Liddell Hart on learning from history,[7] Lord Acton on the history of freedom,[8] Draper on the background for European culture,[9] Weaver on some high spots of history,[10] Mees on the helix of history,[11] Burckhardt on the ancient Grecian civilization and later comparisons,[12] and Hayek on more contemporary debacles from economic ignorance. From these and other excellent sources one can come to see clearly what lies at the end of the road of economic ignorance[13] on which we have been traveling here in the United States.

1. Hermann Rauschning, *The Voice of Destruction* (New York: G. P. Putnam's Sons, 1940), pp. 192–95.

2. Roger J. Williams, *Free and Unequal* (Austin, Tex.: University of Texas Press, 1953).

3. Exodus 20.

4. F. A. Harper, *Liberty: A Path to Its Recovery* (Irvington-on-Hudson, N. Y.: Foundation for Economic Education, 1949), p. 110.

5. *Essays on Liberty*, Volumes I and II (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, Inc., 1952 & 1954); "The Communist Idea," Vol. I, pp. 96–99; "To Communism via Majority Vote" by Ben Moreell, Vol. II, pp. 218–248.

6. Translated by Professor Casper J. Kraemer, Jr. from Lactantius' "On the Death of the Persecutors."

7. B. H. Liddell Hart, *Why Don't We Learn from History?* (London: G. Allen & Unwin, Ltd., 1944).

8. J. E. E. D. Acton, *The History of Freedom and Other Essays* (London: Macmillan and Company, Ltd., 1907).

9. John William Draper, *History of the Intellectual Development of Europe* (New York and London: Harper & Brothers, 1904).

10. Henry Grady Weaver, *The Mainspring of Human Progress* (Irvington-on-Hudson, N. Y.: Foundation for Economic Education. Inc., 1953).

11. C. E. K. Mees, *The Path of Science* (New York: John Wiley & Sons, Inc.; London: Chapman & Hall, Ltd., 1946).

12. Jakob Christoph Burckhardt, *Force and Freedom* (New York: Pantheon Books, Inc., 1943).

13. Friedrich August Hayek, *The Road to Serfdom* (Chicago: University of Chicago Press, 1944).

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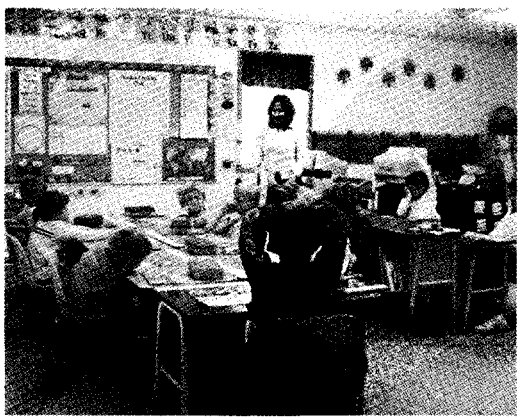
A Lesson from the Plains

BY MARK AHLSEEN

Recent decades have not been kind to rural America. Technological advances in agriculture have resulted in output that can be produced by fewer and fewer people. This has resulted in the depopulation of many rural communities. Diminishing populations have forced many rural communities to consolidate their public schools in order to generate the necessary cost savings. These cost savings come at a price. Many times the community that closes its school begins a gradual decline. Without a local school, young families will seek to locate elsewhere, and the community, literally, begins to die.



First- and second-graders busy at work

Such was the fate of a small hamlet on the plains of north central Kansas. For the school year of 2002–2003, the Tipton Elementary School enrolled 70 students in kindergarten through eighth grade. After months of consideration, Unified School District (USD) 272, incorporating the communities of Cawker City, Downs, Glen Elder, and Tipton, decided in early June 2003 to close the school. After some initial protest, USD 272 decided to allow it to remain open but with only grades kindergarten through third. With only 16 students in these grades, the citizens of Tipton (population 275) realized it would not be long before the school district would close the school for good. Confronted with this fact, the town decided it must go private with its school.

Private education is not new to Tipton. It has had a Catholic high school, which incorporated grades nine through 12, since 1919. Since most of the elementary-school graduates have attended the Catholic school, the citizens' first thought was to ask the diocese if it would consider incorporating kindergarten through eighth grades in their school. After consideration, the diocese agreed to add grades seven and eight. So, in a community meeting in June 2003, the Tipton community overwhelmingly voted to form a Christian school for grades kindergarten through six.

On June 18 the Articles of Incorporation as the Tipton Christian School, Incorporated, were filed. The school was also formed as a nonprofit 501(c)(3) organization. With a board of directors in place, groundbreaking was held on donated land on Sunday, June 22. In 47 days volunteer laborers completed work on the school well in advance of the first day of school, which was scheduled for August 25. With many materials donated and others purchased at discount, the total cost of the building was $52,000. As impressive as this is, a far more important factor was the bringing together of the community to accomplish this task. The result has been a community that is closer and has even more pride in itself.

On August 25, 34 students inaugurated the Tipton

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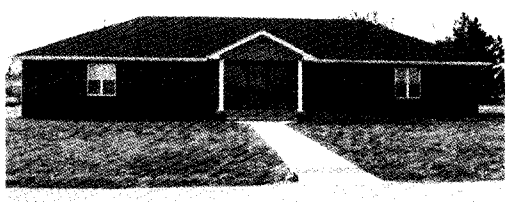
Christian School. Tuition was set at a modest $500 ($250 for kindergarten) for the year, with discounts for families with two or more children enrolled. The $16,000 in tuition revenue covered less than 15 percent of the first-year operating expenses of approximately $120,000. Though getting the school built was the initial concern, fundraising will be the ongoing concern. By the end of September 2003, more than $250,000 had been raised for operating expenses. Kelli Hake, a member of the school board, acknowledges that compassion fatigue may set in and that future fundraising may be more difficult. But for now, the board has enough money to complete the school years 2004–05 and 2005–06. Fundraising efforts today are targeted for the 2006–07 school year.

First day of school, August 2003

The school building has three classrooms, principal and staff offices, and restrooms. Students cross the parking lot to eat lunch in the cafeteria of the Catholic high school. The school employs 3.5 teachers, and the principal, Larry Tonne, donates his time. He had served the previous 17 years as the principal of the Tipton Elementary School. In the morning, first- and second-graders meet together, as do the third- and fourth-graders and the fifth- and sixth-graders. In the afternoon, the kindergarten meets with the first-graders, the second- and third-graders are together, and the fourth- and fifth-graders have combined instruction. The sixth-graders go to the Catholic high school where they are instructed by a teacher who is employed by the high school in the morning (hence the staffing of 3.5 teachers).



Tipton Christian School

Greater Freedom

In addition to keeping a school open for their young children, Tipton residents have found an additional benefit in starting their own private school. That benefit is the greater freedom they are allowed as a private school. A parent, Kathy Streit, said, "One of the great things about having a Christian school is to know that our children can say the Pledge of Allegiance and say 'One Nation Under God' and not get into trouble." The day I visited the school, one of the classroom doors had these words on it: "But grow in the grace and knowledge of our Lord and Savior, Jesus Christ." This would never be tolerated in a public school.

The Tipton Christian School began the fall of 2004 with 32 children enrolled. It continues on with its mission statement: *The mission of Tipton Christian School is to nurture students in a Christ-centered education, who will achieve academic excellence anchored in rural values*. This strength of character exhibited by the citizens of Tipton, Kansas, needs to be emulated by other communities struggling with their public schools.

All too often, it is easier and less expensive for the individual to sit back and let the government "experts" take care of his problems. But the people of Tipton were not content with the solutions of their government experts and decided they would continue paying taxes for USD 272's public schools while funding their own private school. The result has been a stronger community. The same would be true for other communities. All of us must come to realize that important services, like education, need not be the sole purview of government. In fact, we must come to realize that these services will be better provided, both in terms of quality and cost, if done by the private sector.

For anyone interested in learning more about the fascinating experiment on the plains of north central Kansas, the Tipton Christian School welcomes any inquiries at tiptonschools@hotmail.com.

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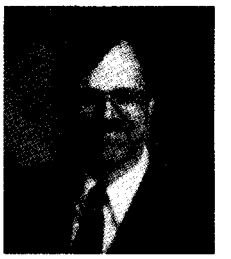
The Liberty Tradition Among Black Americans



BY BURTON FOLSOM, JR.

"Slavery and free institutions can never live peaceably together," Frederick Douglass observed. "Liberty . . . must either overthrow slavery, or be itself overthrown by slavery."

Douglass, black America's most renowned spokesman, made this argument during the Civil War. But what about after the war? Was it proper for the government afterward to intervene and assist blacks in overcoming centuries of bondage? Many black leaders today promote affirmative action, which gives racial preferences in hiring to black Americans. But that was not the thinking of Douglass and other black leaders, such as Booker T. Washington, after the Civil War.

Douglass, for example, in a major speech given in April 1865, expressed a desire for liberty alone. When the war ended, some whites and blacks wanted freed slaves to have special land grants or extensive federal aid. Douglass, a former slave himself, favored the later Civil Rights Bill of 1875, but shunned special privileges. "Everybody has asked the question . . . , 'What shall we do with the Negro?' I have had but one answer from the beginning. Do nothing with us!"

Douglass used the metaphor of an apple tree to drive his point home. "If the apples will not remain on the tree of their own strength, . . . let them fall! . . . And if the Negro cannot stand on his own legs, let him fall also. All I ask is, give him a chance to stand on his own legs! Let him alone! . . .[Y]our interference is doing him a positive injury."

Finally, Douglass concluded, "If the Negro cannot live by the line of eternal justice, . . . the fault will not be yours. . . . If you will only untie his hands, and give him a chance, I think he will live."

Douglass knew much about rising and falling on his own merits. A fugitive slave, he fled northward and joined the antislavery movement in Massachusetts in 1841. He wrote an autobiography and edited the *North Star*, a newspaper promoting freedom for all blacks. Douglass was tall with a mass of hair, penetrating eyes, and a firm chin. Stubborn and principled, he was a captivating orator and spoke all over the United States before and after the Civil War. He was even appointed U.S. minister to Haiti in 1889.

Douglass was especially comfortable speaking before audiences committed to freedom of opportunity for blacks. Not surprisingly, therefore, he came to Michigan in the middle of the Civil War to speak at Hillsdale College, founded in 1844 as only the second integrated college in the nation. The college was somewhat depleted because most of the male students had enlisted in the Union army, which would ultimately win the war and secure the freedom that Douglass had been promoting for over 20 years.

When Douglass died in 1895, Booker T. Washington, founder of the Tuskegee Institute in Alabama, became the most prominent spokesman for black Americans. Like Douglass, Washington was born into slavery, and also like Douglass, he became a forceful writer and orator. In fact, Washington researched and published a biography of Douglass to promote their mutual ideas.

For example, Washington shared Douglass's belief that equal opportunity, not special privileges, was the recipe for success for blacks. Two years after Douglass's death, Washington also made the pilgrimage to Hillsdale College and spoke to the students about promoting in the black community "efficiency and ability, especially in practical living."

He elaborated on this idea in his 1901 book *Up From Slavery*. "I believe," Washington insisted, "that my race will succeed in proportion as it learns to do a common thing in an uncommon manner; learns to do a thing so thoroughly that no one can improve upon

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what it has done; learns to make its services of indispensable value."

What about discrimination—say, when a white employer uses his freedom to refuse to hire a black or to force him into segregated facilities? In such cases Washington sometimes argued for direct action. In 1894 he endorsed the blacks who boycotted newly segregated streetcars in Atlanta. In 1899 and 1900 he publicly opposed efforts by the states of Georgia and Louisiana to disfranchise blacks. Washington insisted, "I do not favor the Negro's giving up anything which is fundamental and which has been guaranteed to him by the Constitution."

More often than not, however, Washington thought that trying to use the force of government to advance the black cause was not as effective as improving the race over time and making blacks indispensable to the American economy. He observed, "No man who continues to add something to the material, intellectual, and moral well-being of the place in which he lives is long left without proper reward. This is a great human law which cannot be permanently nullified." Put another way, Washington declared, "An inch of progress is worth more than a yard of complaint."

Thus when white racists used their freedom to discriminate against blacks, blacks needed to use their freedom to build factories, invent products, and grow crops to make themselves indispensable to economic progress in America. To Washington, that meant two courses of action.

National Negro Business League

First, he founded the National Negro Business League to bring together hundreds of black businessmen and inventors to share ideas and promote economic development. After some initial reluctance, Washington even used this forum to champion black businesswomen, such as hair-care entrepreneur Madam C. J. Walker, the first black female millionaire.

Second, Washington promoted more education for blacks. Education to Washington, especially industrial education that stressed manual labor as well as literary skill, was the means to producing future entrepreneurs, inventors, and teachers that would expand the foundation of black achievement and make racial progress inevitable.

Tuskegee Institute was Washington's main focus, but he encouraged the various black schools and colleges that sprang up all around the nation. While only one black college existed before the Civil War, an average of more than one each year was created in the decades after the war.

What was the result of the emphasis on liberty, self-help, and education stressed by Douglass and Washington? Some black leaders, such as W. E. B. DuBois, criticized the slow and uneven progress, but in truth, black advancement was visible and compelling. Black literacy rates (age 10 and over) went from 20 percent in 1870 to 84 percent by 1930. That meant that in 1930—in sharp contrast to 1870—any honestly administered literacy test for voting would disfranchise almost as many whites as blacks.

During these 60 years black inventors came forth with dozens of major inventions: lubricating systems for train engines, ventilator screens to protect passengers on those trains, the traffic light, and hundreds of uses for the lowly peanut.

These advances slowly helped break down the stereotypes of blacks as illiterate and unskilled. Some of the evidence for change in attitude was symbolic. For example, Booker T. Washington, who had been the first black invited to the White House, became the first black to be honored on an American coin in 1946. The next year major league baseball was integrated; 12 years later all major league teams were integrated, and it was accomplished Booker T. Washington-style without government interference or mandates.

As black Americans increasingly showed themselves to be educated and contributing parts of the American economy, racist arguments broke down and public support for integration and voting rights began to increase. Change was not always steady or peaceful, but it did come. Douglass and Washington were its forerunners. Douglass said it best 140 years ago: "All I ask is, give him [the black American] a chance to stand on his own legs."

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Inflation—Monetary and Educational

BY GEORGE C. LEEF

Thanks mainly to the Austrian economists, especially Ludwig von Mises, monetary inflation is a phenomenon that is well understood. When the state overproduces money, certain consequences necessarily ensue.

The supply of money is not, however, the only thing that government inflates, or overproduces. Something else it has inflated is the production of educational credentials, college degrees in particular. That has been accomplished through the heavy subsidization of college attendance. State governments have chosen to subsidize it through low tuition. In most states, student payments cover less than half of the cost of running the state university system. North Carolina even has a vague constitutional provision requiring that the expense of attending the University of North Carolina be kept as low as "practicable."

Federal subsidization of higher education dates from 1944 with the enactment of the G.I. Bill, which declared that returning soldiers were entitled to free college tuition. Later the feds added loans at below-market rates for college students and grants to students from families with incomes under a certain threshold. Many colleges and universities are now heavily dependent on federal student aid. If those programs were ended, it would mean death or at least severe downsizing for hundreds of schools.

By lowering the cost of going to college, government has given a huge boost to enrollments. At the end of World War II only about 13 percent of students who graduated from high school went on to college; today that figure is about 70 percent. Not all of that growth is due to government subsidization—higher education is something of a luxury good and demand for it would certainly have risen along with our increasing affluence—but the impact of subsidies cannot be doubted. Far more students go to college than would be the case if government did not subsidize it.

I find that there are a number of parallels between the overproduction of money and the overproduction of education that are worth examining.

The most widely recognized effect of monetary inflation is that it lowers the value of money. As government produces more and more money, the purchasing power of each unit of money inevitably declines. During the German inflation following World War I, people had to bring suitcases full of depreciated paper currency to make even the simplest of purchases.

There has been an analogous decline in the value of the college degree as higher education has changed from something that only a few students pursued to a mass consumer product. Professors will candidly say that they have watered down their courses to suit the demands (and abilities) of today's students. The tough courses that remain can usually be avoided, since most schools allow students to choose from a smorgasbord of offerings. Academic standards have plunged while grades have steadily risen. Where a college degree used to be a reliable indicator that the individual could at least write reasonably well, that's no longer the case. The recent report of the National Commission on Writing, "Writing: A Ticket to Work . . . Or a Ticket Out," contains statements like this from business leaders: "The skills of new college graduates are deplorable—across the board; spelling, grammar, sen-

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tence structure. . . . I can't believe people come out of college now not knowing what a sentence is."

The chief reason for this educational depreciation is that, in their efforts to expand, colleges and universities have admitted more and more students who are ill-prepared for and indifferent to serious academic work. Professor Paul Trout calls them "disengaged students." They dislike reading and usually will not do reading assignments. They want their "education" to be easy and fun. They resent criticism and are apt to protest any grade lower than a B. Professors who insist on grading students objectively, which would mean assigning a lot of D's and F's, can expect administrative pressure to "lighten up" on the students, lest they go elsewhere.

Here I will readily admit that there is an important difference between monetary inflation and educational inflation. When the money supply is inflated, the value of every unit of money declines. With educational inflation, however, that is not necessarily the case. It is still possible for a student who really wants to get a solid, rigorous education to do so. A motivated student can find schools that have not succumbed to the widespread dumbing-down, or find the remaining courses and departments that are still strong in schools that by and large have succumbed. Educational inflation has not uniformly lowered the value of college studies, although it clearly has done so generally.

Early Beneficiaries

Another consequence of monetary inflation, the Austrians have explained, is that early recipients of the new money gain the benefits. That's because they get to spend the new money before prices have had a chance to increase. As inflation continues, the market will adjust, prices will generally rise, and people will find that their money holdings have lost value. Monetary inflation therefore only appears to make some people richer in the short run.

The same thing is true regarding educational inflation. When the GI Bill was new, the fairly small number of veterans who took advantage of its college subsidy obtained something that was relatively rare and highly esteemed—a college degree. In the 1940s and 1950s, when even a high-school diploma was far from universal, having a college degree was quite a mark of distinction, giving its holders a considerable competitive advantage in the job market.

As educational inflation has progressed, however, the bachelor's degree has become commonplace and no longer confers much benefit on its holders. Instead of being a mark of distinction that reliably indicates an advanced level of intellectual accomplishment, the B.A. has come to be merely an expected credential. Many employers now require a college degree of applicants for entry-level jobs that could be done by an intelligent high-school graduate. It isn't that the work is so difficult that it couldn't be done by anyone with a reasonably good high-school education, but that with such huge numbers of college graduates in the job market, firms often choose to set a college degree as a crude screening device. Employers assume that anyone without a degree would probably be difficult to train. The requirement rarely has anything to do with necessary skill or knowledge that could only be learned in college coursework. It is simply a vote of "no confidence" in our K–12 system.

Consider such jobs as bank teller or mortgage loan officer. Many (but not all) employers in banking and lending now insist that applicants have a college degree. Are those jobs so much more demanding than they were 40 years ago when they were almost invariably filled by high-school graduates? No. The college degree requirement is simply credential inflation. Professor David Labaree writes about this trend in his book *How to Succeed in School Without Really Learning:*

> [T]he population becomes overcredentialed, as people pursue diplomas less for the knowledge they are thereby acquiring than for the access that the diplomas themselves will provide. The result is a spiral of credential inflation, for as each level of education in turn gradually floods with a crowd of ambitious consumers, individuals have to keep seeking ever higher levels of credentials in order to move a step ahead of the pack. . . . Employers keep raising the entry-level education requirements for particular jobs (as the average education level rises), but they still find that they have to provide extensive training before employees can carry out

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their work productively. At all levels, this is an enormously wasteful system. (p. 259)

Therefore, like monetary inflation, which benefits the small number of early money recipients, educational inflation benefits the small number of early degree recipients. In the long run, however, both the diminution in value of money and the diminution in value of college studies leaves no one better off.

Distortion

The Austrian economists have shown that monetary inflation entails real economic losses in that it distorts economic decision-making. If inflation occurs through a central bank (as it does in the United States through the operations of the Federal Reserve System), it initially drives down interest rates, thereby giving a boost to industries that are sensitive to the cost of borrowing. Construction, for example, tends to boom during the early stages of inflation as people are led to believe that building projects that previously looked too costly will now be profitable. But when, as is inevitable, inflation no longer can artificially depress interest rates, the overexpanded construction industry will have to shrink. Many workers will be laid off, and some firms may fold. Monetary inflation thus brings about wasteful and shortsighted economic decisions.

Exactly the same is true of educational inflation. Subsidies make college attendance artificially more attractive to young people, and more of them choose to go to college than would without subsidies. This leads to two wasteful distortions.

First, we have a far larger higher-education establishment than we would if college were subject to the test of the market. Colleges and universities have built buildings and hired professors and administrators at a rapid pace during the period of the big subsidy. In the absence of educational inflation, those resources would be put to more productive use. There wouldn't be nearly as many professors in academically dubious fields such as women's studies or vocational programs such as casino management if it weren't for the subsidization of college.

Second, many students who are lured into college would have been better off if they had pursued career training instead. A recent article in *Forbes* ("Bumper to Bumper Education," September 6, 2004) points out that while good auto mechanics can now easily earn $75,000 per year, we currently have a shortage of them. On the other hand, the United States has such a glut of college graduates that many of them wind up delivering pizza or selling video games. Clearly, we are wasting manpower in putting so many young people through college just to obtain a credential that has become almost worthless, while we need more people to go into fields such as auto repair. We have, in other words, distorted the labor market by overselling higher education. Students are making educational malinvestments, just as businessmen make economic malinvestments during monetary inflation.

Because subsidies have so much political support, we today have a massively inefficient higher-education system. Hundreds of thousands of academically weak students are lured into colleges and universities every year with the idea that getting a college degree is essential for good employment, and higher-ed leaders wheedle billions of dollars from legislators with the claim that more education spending will somehow supercharge the economy. Instead of highly educated young people and an economic boost, all we've gotten is inflation. In a process similar to that of monetary inflation, educational inflation benefits only a few people in the short run while depressing the value of education in the long run for everyone. And like monetary inflation, educational inflation leads to waste by distorting the choices people make.

The solution to educational inflation is for the state and federal governments to stop subsidizing college and university attendance. If higher education had to pass the test of the market, most of the weak students would stop attending. Credential inflation would ratchet down. Many professors and administrators would have to find more productive employment. We would have fewer pizza-delivery drivers with bachelor's degrees, but more mechanics.

Nations cannot make themselves wealthier by the overproduction of money, and neither can they make themselves smarter by the overproduction of formal education.

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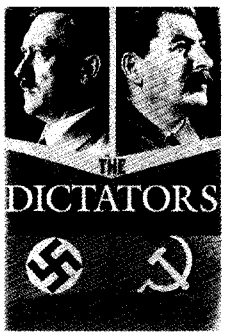
Book Reviews

The Dictators: Hitler's Germany, Stalin's Russia
by Richard Overy
W. W. Norton • 2004 • 849 pages • $35.00

Reviewed by Richard M. Ebeling



Throughout the 1930s the propaganda machines of the Nazi and Soviet regimes did all in their power to insist that they were ideological enemies, diametrically opposed to each other in every conceivable way. There were critics of totalitarianism who emphasized the similarities in the two systems, but theirs was a minority view among many intellectuals, especially on the political left, during the decades of the Cold War and after.

When the masterful and detailed study of twentieth-century communist regimes, *The Black Book of Communism*, was first published in France in the 1990s, for instance, one French leftist tried to rationalize the human cost of socialist tyranny by arguing: "Agreed, both Nazis and communists killed. But while the Nazis killed from hatred of humanity, the communists killed from love."

Nazis, it seems, had bad intentions and used bad methods. Communists, on the other hand, had good intentions—they loved their fellow man and wanted to create a utopia for him—they just made an unfortunate error in selecting less-than-desirable means. Oh, well, back to the drawing board!

Richard Overy's recent work, *The Dictators: Hitler's Germany, Stalin's Russia*, is the most detailed and methodical study, so far, of what the two totalitarian regimes shared in common and in what ways they differed. Indeed, there are few aspects of political, economic, social, and cultural life in Nazi Germany and the Soviet Union that do not receive meticulous analysis from the author.

It is in the concluding chapter of the book that one discovers what Overy considers the most fundamental premises of the two regimes. Both the Nazis and the communists, he argues, were guided by the spirit of scientism: the misplaced application of the methods of the natural sciences to the arena of human life. Marxian socialists were convinced that they could deduce the "laws" of historical development that necessitated the inevitable triumph of "the workers" over their capitalist exploiters. In addition, they believed that once the revolution had been orchestrated, the "dictatorship of the proletariat" had the ability to remake man and transform society into a collectivist paradise.

The Nazis also believed in the power of science, but in their case it was a "racial science" that defined different human groups and their hierarchical relationships to each other. Through application of eugenics, a purified "master race" could be socially engineered, with "the Germans" being the superior breed meant to rule the world.

Communism and Nazism, therefore, were variations on the same collectivist theme, in which the individual and his identity as a person were determined by either his "class" or "race." Both were paranoid in their outlook on life. Nazis saw racial threats everywhere, in the form of inferior groups that could defile Germany's blood purity. Communists saw class enemies surrounding and threatening the existence of the Soviet workers' state. Vigilance at the borders and secret-police terror internally were essential for the regimes to preserve either the master race or the proletarian paradise.

Hitler and Stalin were convinced of their unique and irreplaceable roles in making history. Hitler believed that just as there is a master race among humanity, so there is a master leader within the master race, who through intuition, insight, and will power knows what is needed to assure the rightful place and destiny of the German people. Fate had called him to that task. Following in Lenin's footsteps, Stalin believed that socialist victory was impossible without professional revolutionaries who served as the vanguard of the proletariat. Among the vanguard there was the necessity for one determined leader to head the movement, with "history" having assigned Stalin this momentous duty.

For Hitler and Stalin, their ruthlessness and disregard of human life were essential to fulfill their role as leaders of the Nazi and communist causes. What was,

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perhaps, most dangerous in both men was that they believed in what they were doing to bring their versions of utopia into existence. Hitler and Stalin were "true believers."

The power of "scientific" social engineering was present in everything that they commanded for the reconstruction of German and Soviet society. Stalin introduced five-year central plans in 1929; Hitler imposed four-year central plans in 1936. Nothing was outside the orbit of control and command, from the most mundane consumer goods to the redesigning of whole cities and the wider countryside. Art, literature, music, sports, and leisure were all used to mold the tens of millions of subjects under their power into the desired shape for a beautiful tomorrow.

As Overy carefully recounts, there was little that was random in the Nazi and Soviet use of terror and imprisonment. Those, too, were planned with a purpose in mind. They targeted the designated "enemies of the people" to isolate and destroy all who opposed "the brave new world" in the making. But those arrested and sent off to concentration camps in Nazi Germany and the Soviet Union were also viewed as forced labor for building the Nazi and Soviet societies. The victims were all part of the same central plan, whether for work or extermination.

Overy also highlights the degree of popularity that both the Nazis and communists achieved in German and Soviet society. The secret police were tiny fractions of those populations. With little prodding people willingly spied and informed on their friends, relatives, and neighbors. Both regimes promised and seemed to deliver a new ideal of "equality" in which devotion and hard work in the service of "the cause" assured that even the lowly could find status, position, and reward, now that the old class distinctions were swept away. The state monopoly over news and information succeeded in persuading millions of the truth and justice of the regimes under which they lived. The "masses" in both countries passively or actively worked for the system, with little resistance or opposition.

The Nazi and Soviet regimes have passed away, their cruelties fading in memory. Yet one wonders—if such ideologies could once before mesmerize so many, could they not do so again? Under the right circumstance, could not the appeal of utopia drag humanity once more into a vortex of destruction?

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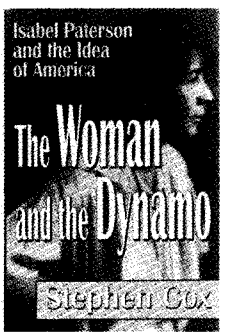
The Woman and the Dynamo: Isabel Paterson and the Idea of America

by Stephen Cox

Transaction Publishers • 2004 • 409 pages • $39.95 hardcover

Reviewed by Jude Blanchette



It is a curious footnote in the history of the libertarian movement that three of its leading inspirations voted for Franklin Roosevelt for president. The irreverent H. L. Mencken voted as much against Hoover as he did for FDR. Ayn Rand, like many, bought into Roosevelt's rhetoric of fiscal discipline. But Isabel Paterson knew better, or at least she should have.

Born in 1886 on an island in the middle of Lake Huron, the frontier of untamed Canada left an indelible mark on Paterson. After working for a series of newspapers on the American west coast, she migrated east—to New York City—where she eventually found her way to the *Herald-Tribune* and ultimately to nationwide fame. While ostensibly a book-review column, her weekly "Turns With a Bookworm" provided a regular forum for her views on just about everything, from a libertarian perspective. Signed I.M.P., "Turns" became one of the most influential literary columns in America.

Paterson's name survives today, however, primarily because of *The God of the Machine*, her magnum opus written in 1943. For the aspiring libertarian, it has almost become required reading. Written during the dark epoch of World War II, it, along with Ayn Rand's *The Fountainhead* and Rose Wilder Lane's *The Discovery of Freedom: Man's Struggle Against Authority*, was one of the three books published that year which helped ignite the modern libertarian movement. The book is a magisterial attempt to chart the course of human energy, both free and unfree. In Paterson's writing, we see great passion, wit, and verve. To her, Plato's *Republic* was a "paper scheme," while "Most of

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the harm in the world is done by good people, and not by accident, lapse, or omission." Her belief in human freedom was as strong as her distaste for socialism, interventionism, and the welfare state, and it is no wonder she converted so many to the cause of liberty.

Yet there has been comparatively little written on Paterson. Stephen Cox's new biography corrects this intellectual sin of omission.

Charting the course of her life from the wilds of Canada to the hubris of intellectual cocktail parties in New York City, Cox weaves an intricate picture of this iconoclast's life. For those who came to Paterson through *The God of the Machine*, Cox's book reminds us that she was firmly established as an important libertarian intellectual even before its publication. Her columns covered war, peace, trade, and socialism from the stance of a libertarian individualist fighting the tide of collectivism.

Cox, a professor of literature at the University of California, San Diego, understands that *what* Paterson wrote was equally as important as *when* she wrote it. If alive and writing today, Isabel Paterson would be an important and courageous thinker. She was all the more so given that she was virtually alone in her politics—doubly so, considering her gender—during the New Deal and world war. She proudly proclaimed her belief in "the Rights of Man, personal liberty and private property" when the literary world was infatuated with the "new man" of the Soviet Union. This, along with her strong position against entry into the war and her dislike of militant anticommunism, won her enemies on all sides. Like Mencken, she traveled in a world hostile to her ideas, and her unyielding belief in liberty and limited government marginalized her in many people's eyes.

Much of the material for the book was drawn from Paterson's personal correspondence, and that consequently gives it a strongly partisan feel—with Cox firmly ensconced in Paterson's corner. Some of Cox's conclusions seem a bit strained. For example, he asserts that Paterson was *the* guiding force behind Rand's political development. He writes, "If there was a crucial, external influence on Rand's political development, Paterson was that influence." His evidence to support this statement is weak—an inscription in Paterson's copy of *The Fountainhead* that reads, "You have been the one encounter in my life that can never be repeated." This is certainly a touching sentiment, but it's hardly enough evidence to support the contention.

That small point aside, *The Woman and the Dynamo* is a valuable addition to the history of the libertarian movement. While it is not the final word on Paterson, it should serve as a springboard for further research into a woman and her writings, which are still highly relevant half a century later.

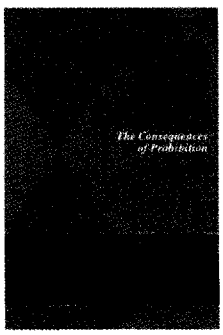
Jude Blanchette (jblanchette@fee.org), the Henry Hazlitt Adjunct Scholar at FEE, is writing a biography of Hazlitt.

Drug War Crimes: The Consequences of Prohibition

by Jeffrey A. Miron

Independent Institute • 2004 • 101 pages • $15.95 paperback

Reviewed by George C. Leef



In perhaps no other public-policy question is the United States more hopelessly in the grip of a conventional wisdom that is utterly and egregiously wrong than drugs. Most Americans, no matter their political affiliation, are adamant supporters of the "war on drugs." Try suggesting that the war might be stupendous folly and you'll most likely run into vehement opposition replete with ad hominem attacks.

It is hard to get people to examine their ideas—"prejudices" might be a better word—about drugs, but in *Drug War Crimes*, Boston University economics professor Jeffrey Miron has put into the public discourse an attack on the conventional wisdom that is impossible for any serious-minded person to brush off. Written with a professional economist's careful attention to costs and benefits, both seen and unseen, the book relentlessly challenges all the beliefs that support the criminalization of drugs.

Miron begins by toting up some of the principal costs of our anti-drug crusade. Government spends more than $33 billion annually on it. Arrests for drug-related infractions exceed 1.5 million per year. The United States now has well in excess of 300,000 people behind bars for drug violations. If they're even aware of

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the cost, drug-war supporters contend that we would experience a disastrous rise in drug use—which is assumed to be a life-ruining event—and therefore worth it. Prohibitionists assert that "drug use causes crime, diminishes health and productivity, encourages driving and industrial accidents, exacerbates poverty, supports terrorism and contributes generally to societal decay," Miron writes. Those beliefs are carefully reinforced by spokesmen for the drug war. Our author takes on all those claims and shows them to be erroneous.

Consider, for example, the widely held idea that drug use causes crime. Statistics show that in 35 cities monitored by the U.S. Department of Justice in 2000, at least 50 percent of adult men arrested for crimes tested positive for drugs. That's enough to frighten the typical citizen into supporting the drug war. After all, who wants more crime? But Miron points out that those statistics don't show that drug usage *causes* criminal behavior or that the arrestees were under the influence of drugs at the time of the crime. "The methodology used in these analyses would also demonstrate that consumption of fast food or wearing blue jeans causes criminal behavior," Miron observes with appropriate sarcasm.

Another mistaken belief that leads to support for the drug war is that any drug use almost inevitably leads to addiction and an increasingly dissolute life. That notion causes people to view drug use as so dangerous as to warrant the extreme measures the government employs in its attempt to prevent anyone from using any illegal drug in any amount. Miron shows that belief to be unfounded. Drug use may be addictive, but is not necessarily so and many drug users lead perfectly normal lives. True, some users suffer adverse health consequences, but, the author observes, "A critical problem with standard depictions of the health consequences of drug use is reliance on data sources that are systematically biased toward those who suffer the worst consequences."

For all our costly enforcement efforts, Miron shows that drug prohibition has little impact on the incidence of drug use, mainly because drug producers and sellers can evade law enforcement so easily. Yet the costs extend beyond the obvious ones already mentioned. One of them is increased racial tension because drug enforcement is so often targeted at minority areas. Another is a great increase in violence. Miron argues that without drug prohibition, homicide rates in the United States would fall by half. A third is the non-availability of drugs, particularly marijuana, for medical reasons, thus causing much avoidable pain and suffering. By the time our author is done with his analysis of costs and benefits, it is clear that the war on drugs is an exceedingly foolish policy.

Miron advocates legalization rather than any of the halfway alternatives sometimes advanced. He concludes by saying, "American tradition should make legalization—i.e., liberty—the preferred policy, barring compelling evidence prohibition generates benefits in excess of its costs. As I have demonstrated here, a serious weighing of the evidence shows instead that prohibition has enormous costs with, at best, modest and speculative benefits. Liberty and utility thus both recommend that prohibition end now: the goals of prohibition are questionable, the methods are unsound, and the results are deadly."

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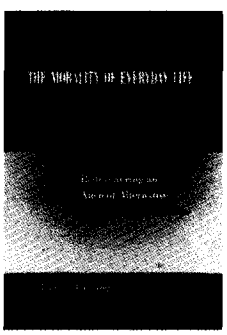
The Morality of Everyday Life: Rediscovering an Ancient Alternative to the Liberal Tradition

by Thomas Fleming

University of Missouri Press • 2004 • 270 pages • $44.95

Reviewed by Brian Doherty



In his new book, *The Morality of Everyday Life: Rediscovering an Ancient Alternative to the Liberal Tradition*, Thomas Fleming, longtime editor of the fine paleoconservative journal *Chronicles* (to which I have contributed in the past), essays a multipronged assault on the style of moral reasoning that has, in his telling, dominated the Western world from the Enlightenment on—to our detriment.

"The unexamined life may well be worth living," he writes, "so long as it is lived in accordance with traditions that are consistent with human nature and encourage the fulfillment of human needs. But it is precisely those traditions that have been destroyed by

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rationalist ethics. When a tradition of thought leads to moral dissolution, social chaos, and music and poetry that speak only to professionals, it may be time to wonder how people lived and thrived before they were called upon to be citizens of the world, dedicated to absolute standards of right and wrong."

The rot in modern moral thinking, Fleming writes, spreads from its arid universality, its refusal to recognize the moral significance of the specific roles and circumstances of a human life as it is most richly lived: as child, parent, spouse, neighbor, laborer, countryman.

While Fleming is decidedly not a libertarian, his book could be read as a defense of libertarianism as a political philosophy (though not an all-encompassing moral one).

Fleming laments, properly, that modern states try to impose universal moral demands that violate the proper boundedness and rootedness of human moral obligation. For example, both foreign aid and affirmative action enforce care for others over one's own family. We cannot right all the wrongs and fill all the lacks of the world; but if everyone acted on the ancient moral obligation to care for themselves and immediate family, and then their local community, we could in effect abolish those wrongs and lacks.

Alas, Fleming thinks libertarians (with their vision of universal human rights to be free from violence and coercion, and universal obligations to refrain from violence and coercion) are just one more platoon in the modern philosophical army wrecking the sustaining traditions of the ancients. Still, the libertarian political vision fits most snugly with Fleming's vision of proper human morality.

In a world of particularity and variety on the family and tribal level, we need an overarching political theory that allows different moral visions to live together in peace. Fleming notes, "Where Descartes or Locke looked at the everyday world and saw nothing but a few universal rules reducible to a mathematical formula, Aristotle and the writers of the Old Testament discerned an intricate network of peculiar obligations arising from specific circumstances and experiences." The libertarian political ethic will not actively interfere with this network and its obligations.

When you openly celebrate a jumbled, particularistic moral philosophy not based in rationality, but in tradition, you'll end up inconsistent. Fleming is against foreign aid, condemned as a way for the state to benefit others at the expense of yourself and your family. But he is for tariffs that benefit other producers at the expense of your and your family's consumption.

Fleming presumes the self-evident value of small, localized cultural traditions over those of the global, commercial modern West. While one might share this as an aesthetic value, he doesn't do much to convince the skeptical that this is a matter of moral philosophy. But the sort of rationalism that would involve "convincing" has no role in Fleming's moral vision. He ultimately presents an intellectual defense of nonintellectual localized preference and prejudice, a love of tribalism as an intellectual construct while showing mostly contempt for his own "tribe," contemporary fellow Americans.

Ultimately, the localism and tribalism that Fleming celebrates, the families and small communities that he insists are the proper grounds for human well-being, have their best chance of surviving and thriving in a libertarian polity—*if the individuals that are part of the localities and tribes and families and communities want them to*. Certainly, the "globalism" that a universal free market allows can corrode old ways—but not by force. As Fleming skillfully points out, it's the contemporary state that wars against local values and uniqueness, on many fronts.

Fleming's moral vision *needs* libertarianism. Once you grant that the state has the right or the obligation to interfere with others for the sake of some greater good, all smaller communities and interests are in danger of being crushed. Libertarian political philosophy may be universal and rational, but only it allows room for the widest play of local and individual variance and seemingly irrational attachments. The only catch is—and this should be morally bearable, even for those skeptical of universal, rational moral philosophy—they have to be freely adhered to, personally chosen.

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Economics for the Citizen

BY WALTER E. WILLIAMS

For the first time in 37 years, last fall semester I didn't teach. No, I haven't retired. It was my semester-off reward for two terms as department chairman at George Mason University. A break is well deserved after a chairmanship—a job not unlike that of herding cats.

During fall semesters I typically teach our first-year Ph.D. microeconomics theory course. Out of a love for teaching, I decided not to completely take off, but deliver a few lectures on basic economic principles to readers. We'll name the series "Economics for the Citizen."

The first lesson in economic theory is that we live in a world of scarcity. Scarcity is a situation whereby human wants exceed the means to satisfy those wants. Human wants are assumed to be limitless, or at least they don't frequently reveal their bounds. People always want more of something, be it more cars, more food, more love, more happiness, more peace, more health care, more clean air, or more charity. Our ability and resources to satisfy all human wants are indeed limited. There's only a finite amount of land, iron, workers, and years in a lifetime.

Scarcity produces several economic problems: What's to be produced, who's going to get it, how's it to be produced, and when is it to be produced? For example, many Americans, and foreigners too, would love to have a home or vacation home along the thousand miles of California, Oregon, and Washington coastline. Shipping companies would like to use some of it as ports. The U.S. Defense Department would like to use it for military installations. There's simply not enough coastline to meet all the competing wants and uses. That means there's conflict over coastline ownership and its uses. If human wants were not unlimited, or the resources to satisfy those wants were limitless, there would be no economic problem and hence no conflict.

Whenever there is conflict, there must be a means to resolve it. Several methods of conflict resolution exist. First, there's the market mechanism. In our land-use example, the highest bidder would be the one who owns the land and decides how it will be used. Then there's government fiat, where the government dictates who has rights to use the land for what purpose. Gifts might be the way in which an owner arbitrarily chooses a recipient. Finally, violence is a way to resolve the question of who has the use rights to the coastline—let people get weapons and physically fight it out.

At this juncture, some might piously say, "Violence is no way to resolve conflict!" The heck it isn't. The decision of who had the right to use most of the Earth's surface was settled through violence (wars). Who has the right to the income I earn is partially settled through the threats of violence; that is, our government, through the tax code, decides that farmers, businesses, and poor people have rights to my income. In fact, violence is such an effective means of resolving conflict that most governments want a monopoly on its use.

Which is the best method to resolve conflict arising out of the questions of what's to be produced, how and when it's produced, and who's going to get it? Is it the market mechanism, government fiat, gifts, or violence?

The answer is that economic theory can't answer normative questions. Normative questions are those that deal with what is better or worse. No theory can answer better-or-worse questions. Try asking a physics teacher which is the better or worse state: a solid, gas, liquid, or plasma state. He'll probably look at you as if you're crazy; it's a nonsense question. On the other hand, if you ask your physics teacher which is the cheapest state for pounding a nail into a board, he'd probably answer that it's the solid state. It's the same

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with economic theory. That is, if you asked most economists which method of conflict resolution produces the greater overall wealth, they'd probably answer that the market mechanism does.

The bottom line is that economic theory is objective or non-normative and cannot make value judgments. Economic theory deals with what was, what is, and what will be. By contrast economic policy questions are normative or subjective and do make value judgments—questions such as: Should we fight unemployment or inflation? Should we spend more money on education? And should the capital gains tax be 15 percent or 20 percent? Someone once said that if we took all the economists in the world and lined them up end-to-end, they would never reach a single conclusion. Economists are just like anyone else and as such have opinions and values. Thus much of the disagreement among economists has to do with value judgments. By contrast, there's widespread agreement on core theory.

Facts and Standards

Keeping the distinction between non-normative and normative in mind is important, so let me elaborate a bit. Take the statement "The dimensions of this room are 30 feet by 40 feet." That's an objective statement. Why? If there's any disagreement, there are empirical facts and commonly agreed-to standards to which we can appeal to settle the disagreement, namely, getting out a measuring instrument. Compare that statement to "The dimensions of this room should be 20 feet by 80 feet." Say another person disagrees and argues that it should be 50 feet by 50 feet. There are no facts and commonly agreed to standards to resolve such disagreement. Similarly, there are no facts and commonly agreed-to standards to which we can appeal to resolve a disagreement over whether the capital-gains tax should be 15 percent or 20 percent, or whether it's more important to fight inflation or unemployment.

The importance of knowing whether a statement is non-normative or normative is that in the former there are facts to settle any dispute, but in the latter there are none. It's just a matter of opinion, and one person's opinion is just as good as another. A good clue to telling whether a statement is normative is whether it contains the words "should" and "ought."

At the beginning of each semester, I tell students that my economic-theory course will deal with positive, non-normative economic theory. I also tell them that if they hear me making a normative statement without first saying, "In my opinion," they are to raise their hands and say, "Professor Williams, we didn't take this class to be indoctrinated with your personal opinions passed off as economic theory; that's academic dishonesty." I also tell them that as soon as they hear me say, "In my opinion," they can stop taking notes because my opinion is irrelevant to the subject of the class—economic theory.

I conclude this part of my first lecture by telling the students that by no means do I suggest that they purge their vocabulary of normative or subjective statements. Such statements are useful tools for tricking people, but in the process one needn't trick oneself. You tell your father that you absolutely need a cell phone and he should buy you one. There's no evidence whatsoever that you need a cell phone. After all, George Washington managed to lead our nation to defeat Great Britain, the mightiest nation on earth at the time, without owning a cell phone.

I personally believe that economics is fun and valuable. More than anything else, economics is a way of thinking. People who say they found economics a nightmare in college just didn't have a good teacher-professor. I became a good teacher-professor as a result of tenacious mentors during my graduate study at UCLA. Professor Armen Alchian, a very distinguished economist, used to give me a hard time in class. But one day, we were having a friendly chat during our department's weekly faculty/graduate student coffee hour, and he said, "Williams, the true test of whether someone understands his subject is whether he can explain it to someone who doesn't know a darn thing about it." That's a challenge I love: making economics fun and understandable.

The next discussion in the "Economics for the Citizen" series will be a bit more interesting. We'll talk about what kinds of behavior can be called economic behavior.

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